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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>NAZARIO LIMON-PEREZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 07-72978

Agency No. A079-541-372

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 5, 2010**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Nazario Limon-Perez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order vacating an immigration judge’s decision granting his application for cancellation of removal. Our jurisdiction is

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

governed by 8 U.S.C. §1252. We review for substantial evidence the BIA's continuous physical presence determination. *Landin-Zavala v. Gonzales*, 488 F.3d 1150, 1151 (9th Cir. 2007). We deny the petition for review.

Substantial evidence supports the BIA's determination that Limon-Perez did not meet the continuous physical presence requirement because the record shows he was placed in exclusion proceedings in 1996 and ordered excluded. *See Landin-Zavala*, 488 F.3d at 1153 (deportation under a formal exclusion order breaks an applicant's continuous physical presence).

Because Limon-Perez failed to demonstrate a gross miscarriage of justice, he may not, at this point, collaterally attack his June 13, 1996, exclusion order. *See Ramirez-Juarez v. INS*, 633 F.2d 174, 175-76 (9th Cir. 1980) (per curiam).

PETITION FOR REVIEW DENIED.