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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE JUAN RUIZ MARTINON,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-72918

Agency No. A096-362-360

MEMORANDUM*

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

Submitted September 13, 2010 **

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Jose Juan Ruiz Martinon, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' denial of his motion to reopen the underlying denial of his application for cancellation of removal based on his lack of a qualifying relative. The BIA found that the motion was untimely, and

* 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).

alternatively, that cancellation relief was properly denied based on the lack of a qualifying relative.

We reject Ruiz Martinon's contention, that his equal protection and due process rights were violated by the requirement of a qualifying relative for cancellation relief because he should have been allowed to apply for suspension of deportation relief which does not require a qualifying relative. *See Vasquez-Zavala v. Ashcroft*, 324 F.3d 1105, 1108-09 (9th Cir. 2003) (Congress comported with equal protection and due process when it repealed suspension of deportation for aliens placed in removal proceedings on or after April 1, 1997); *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 602-03 (9th Cir. 2002) (line-drawing decisions made by Congress or the Executive Branch in immigration matters must be upheld if they are rationally related to a legitimate government purpose).

We need not consider Ruiz Martinon's contention regarding his continuous physical presence because his failure to establish the requisite hardship to a qualifying relative is dispositive. *See* 8 U.S.C. § 1229b(b)(1).

PETITION FOR REVIEW DENIED.