

AUG 5 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>PABLO DOMINGUEZ-SALMERON,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 09-73540

Agency No. A079-154-764

MEMORANDUM*

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

Submitted August 2, 2011**

Before: RYMER, IKUTA, and N.R. SMITH, Circuit Judges.

Pablo Dominguez-Salmeron, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for cancellation of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We

* 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).

review for substantial evidence the agency's continuous physical presence determination, *Vera-Villegas v. INS*, 330 F.3d 1222, 1230 (9th Cir. 2003), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to consider Dominguez-Salmeron's contention that the IJ failed to make an explicit adverse credibility determination because Dominguez-Salmeron did not exhaust this contention before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

Substantial evidence supports the agency's continuous physical presence determination because the record does not compel the conclusion that Dominguez-Salmeron was present in the United States from January 15, 1992 to January 15, 2002. *See Pedro-Mateo v. INS*, 224 F.3d 1147, 1150 (9th Cir. 2000) (a contrary result is not compelled "when it is possible to draw two inconsistent conclusions from the evidence").

PETITION FOR REVIEW DISMISSED in part; DENIED in part.