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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RICARDO RAMIREZ-GUTIERREZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 07-72291

Agency No. A078-467-244

MEMORANDUM\*

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

Submitted October 25, 2011\*\*

Before: TROTT, GOULD, and RAWLINSON, Circuit Judges.

Ricardo Ramirez-Gutierrez, 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 decision denying his application for a waiver under Section 212(h) of the Immigration and Nationality Act. Our jurisdiction is

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\* 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 de novo questions of law. *Mohammed v. Gonzales*, 400 F.3d 785, 791–92 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

Ramirez-Gutierrez’s contention that he began lawfully residing continually in the United States when he took steps to establish substantial ties in the United States is unpersuasive. *See* 8 U.S.C. § 1182(h) (an alien previously admitted for lawful permanent residence is ineligible for a 212(h) waiver if the alien has not “lawfully resided continuously in the United States for a period of not less than 7 years immediately preceding the date of initiation of proceedings to remove the alien from the United States”).

We lack jurisdiction over Ramirez-Gutierrez’s contention that he began accruing lawful continuous residence when he filed his I-130 petition because he did not raise the claim before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

Ramirez-Gutierrez’s equal protection argument is unavailing. *Taniguchi v. Schultz*, 303 F.3d 950, 957 (9th Cir. 2002) (“[A] statute that limits the relief available to a certain class of aliens will be ‘valid unless wholly irrational.’”).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**