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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GABRIEL ALEJANDRO FUENTES-RODRIGUEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-72384

Agency No. A075-505-832

MEMORANDUM*

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

Submitted August 8, 2012**

Before: ALARCÓN, BERZON, and IKUTA, Circuit Judges.

Gabriel Alejandro Fuentes-Rodriguez, 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

* 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).

applications for cancellation of removal and voluntary departure. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency's factual findings, and review de novo questions of law, including due process claims. *Ibarra-Flores v. Gonzales*, 439 F.3d 614, 618 (9th Cir. 2006). We deny in part and dismiss in part the petition for review.

Substantial evidence supports the BIA's conclusion that Fuentes-Rodriguez did not meet the continuous physical presence requirement for cancellation of removal. *See* 8 U.S.C. § 1229b(b)(1)(A). In addition, he was ineligible for voluntary departure due to his previous grant. *See* 8 U.S.C. § 1229c.

The BIA did not err in concluding that Fuentes-Rodriguez did not establish a due process violation by the IJ. *Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000).

We lack jurisdiction to review Fuentes-Rodriguez's ineffective assistance of counsel claim because he failed to raise it before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (this court lacks jurisdiction to review contentions not raised before the agency).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.