

OCT 15 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARISOL TORRES ORTEGA,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 11-71019

Agency No. A096-351-892

MEMORANDUM\*

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

Submitted October 9, 2012\*\*

Before: RAWLINSON, MURGUIA, and WATFORD, Circuit Judges.

Marisol Torres Ortega, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's decision denying her application for cancellation of removal.

We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence

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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).

the agency's continuous physical presence determination, *Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004), and we deny the petition for review.

Substantial evidence supports the agency's determination that Ortega did not meet the continuous physical presence requirement where her sworn affidavit and cancellation of removal applications indicated that she departed the United States for Mexico in August 1994 and that she remained there for a period greater than 90 days. *See* 8 U.S.C. § 1229b(d)(2) (departure in excess of 90 days breaks continuous physical presence).

**PETITION FOR REVIEW DENIED.**