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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ESTEBAN ORTEGA-SANCHEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 10-72614

Agency No. A077-596-084

MEMORANDUM*

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

Submitted September 24, 2013**

Before: RAWLINSON, N.R. SMITH, and CHRISTEN, Circuit Judges.

Esteban Ortega-Sanchez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial

* 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).

evidence the agency's determination regarding continuous physical presence, *Gutierrez v. Mukasey*, 521 F.3d 1114, 1116 (9th Cir. 2008), and we deny the petition for review.

Substantial evidence supports the agency's conclusion that Ortega-Sanchez failed to establish ten years of continuous physical presence in the United States prior to the service of his Notice to Appear because Ortega-Sanchez knowingly and voluntarily accepted administrative voluntary departure in lieu of appearing before an IJ during the relevant ten-year period. *See id.* at 1117-18 (acceptance of voluntary departure terminates physical presence if petitioner understood he had the right to go before an IJ and chose to depart instead).

PETITION FOR REVIEW DENIED.