

FEB 19 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MANUEL DE JESUS MARTINEZ-
ESCALERA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-70977

Agency No. A048-144-371

MEMORANDUM*

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

Argued and Submitted February 4, 2014
Pasadena, California

Before: SCHROEDER and CLIFTON, Circuit Judges, and TUNHEIM, District
Judge.**

Manuel de Jesus Martinez-Escalera petitions for review of the decision of
the Board of Immigration Appeals (“BIA”) denying his motion to reopen. The
BIA rejected Martinez-Escalera’s argument that he could meet the seven-year

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The Honorable John R. Tunheim, United States District Judge for the
District of Minnesota, sitting by designation.

residency requirement for cancellation of removal by imputing the residence of his United States citizen children. We deny the petition.

Martinez-Escalera attempts to rely on our decision in *Cuevas-Gaspar v. Gonzales*, 430 F.3d 1013, 1029 (9th Cir. 2005), in which we held that a parent's admission for permanent residence status is imputed to the parent's unemancipated minor child for purposes of satisfying the residency requirement for cancellation of removal. The Supreme Court abrogated *Cuevas-Gaspar* with *Holder v. Martinez Gutierrez*, 132 S. Ct. 2011, 2017 (2012) (holding that the BIA's interpretation of the cancellation of removal statute as requiring an alien to satisfy the residency requirements on his own was reasonable). *Id.* We appreciate the efforts of counsel to distinguish *Martinez Gutierrez*, but those efforts ultimately fail.

PETITION DENIED.