

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

APR 26 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DAVID LOPEZ-GOMEZ,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 15-73182

Agency No. A200-248-498

MEMORANDUM*

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

Submitted April 11, 2017**

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

David Lopez-Gomez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's order of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency's factual findings, and we

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

review de novo questions of law. *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010). We deny in part and dismiss in part the petition for review.

Substantial evidence supports the agency's finding that Lopez-Gomez did not provide sufficient evidence to establish that he lawfully entered the United States. *See* 8 C.F.R. § 1240.8(c); *Murphy v. INS*, 54 F.3d 605, 608-09 (9th Cir. 1995) (alien bears burden of showing time, place, and manner of entry after the government has established alienage); *Carrillo-Gonzalez v. INS*, 353 F.3d 1077, 1079 (9th Cir. 2003) (statements by counsel are not evidence). The BIA did not err in referring to Lopez-Gomez's mother's declaration.

We lack jurisdiction to consider Lopez-Gomez's unexhausted contentions regarding the alleged ineffective assistance of counsel. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010).

We grant the motion to withdraw as counsel of record (Docket Entry No. 28) filed by Bethany C. Danks.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.