

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 20 2018

FOR THE NINTH CIRCUIT

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

JAIME GOMEZ-SANTIAGO,

No. 16-70875

Petitioner,

Agency No. A205-708-167

v.

MEMORANDUM\*

JEFFERSON B. SESSIONS III, Attorney  
General,

Respondent.

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

Submitted March 13, 2018\*\*

Before: LEAVY, M. SMITH, and CHRISTEN, Circuit Judges.

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

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\* 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).

continuous physical presence determination. *Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004). We deny in part and dismiss in part the petition for review.

Substantial evidence supports the agency's determination that Gomez-Santiago did not establish the requisite continuous physical presence for cancellation of removal, where he testified that he remained outside the United States for a period of more than 90 days during the statutory period, and no record evidence compels a contrary conclusion. *See* 8 U.S.C. § 1229b(b)(1)(A), (d)(2) (a departure in excess of 90 days breaks continuous physical presence).

We lack jurisdiction to consider Gomez-Santiago's unexhausted contention that he should have been granted a continuance. *See Vilchiz-Soto v. Holder*, 688 F.3d 642, 644 (9th Cir. 2012) (order).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**