

**+CORRECTED
NOT FOR PUBLICATION**

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JAN 4 2019

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

GUILLERMO PEREZ-MARTINEZ,

Petitioner,

v.

MATTHEW G. WHITAKER, Acting
Attorney General,

Respondent.

No. 16-72256

+Agency No. A205-405-889

MEMORANDUM*

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

Submitted May 15, 2018**

Before: SILVERMAN, BEA, and WATFORD, Circuit Judges.

Guillermo Perez-Martinez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying cancellation of removal. Our jurisdiction

* 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).

is governed by 8 U.S.C. § 1252. We grant in part and dismiss in part the petition for review.

The BIA did not have the benefit of *Pereira v. Sessions*, 138 S. Ct. 2105, 201 L. Ed. 2d 433 (2018), which held that a notice to appear that does not specify a time and date of hearing does not trigger the stop-time rule, when it denied cancellation of removal for failure to establish ten years of continuous physical presence. Thus, we remand for the BIA to consider continuous physical presence in light of *Pereira*.

We lack jurisdiction to review Perez-Martinez's unexhausted contentions regarding ineffective assistance of counsel. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) ("We lack jurisdiction to review legal claims not presented in an alien's administrative proceedings before the BIA.").

PETITION FOR REVIEW GRANTED in part; DISMISSED in part; and REMANDED.