

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 23 2019

FOR THE NINTH CIRCUIT

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

LORENA JIMENEZ RIVERA,

No. 14-71952

Petitioner,

Agency No. A074-826-105

v.

MEMORANDUM*

WILLIAM P. BARR, Attorney General,

Respondent.

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

Submitted April 17, 2019**

Before: McKEOWN, BYBEE, and OWENS, Circuit Judges.

Lorena Jimenez Rivera, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's decision denying cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for review.

* 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).

Jimenez Rivera does not raise, and therefore waives any challenge to, the BIA's dispositive determination that, assuming credibility, she could not show the ten years of continuous physical presence required for cancellation of removal because she testified she was not in the United States for approximately three years from 1991 to 1994. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013) (issues not specifically raised and argued in an opening brief are waived); 8 U.S.C. § 1229b(b)(1)(A), (d)(2) (a departure in excess of 90 days breaks continuous physical presence).

In light of this determination, we need not address Jimenez Rivera's contentions regarding credibility or whether documentary evidence establishes the date of her initial entry into the United States. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (courts and the agency are not required to make findings on issues the decision of which is unnecessary to the results).

PETITION FOR REVIEW DENIED.