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U.S. COURT OF APPEALS

NOT FOR PUBLICATION  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

ANTONIO BARAJAS VILLEGAS,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 05-76172

Agency No. A79-570-349

MEMORANDUM\*

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

Submitted November 13, 2007\*\*

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

Antonio Barajas Villegas, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order upholding an

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

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

immigration judge's decision denying his application for cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review the agency's continuous physical presence determination for substantial evidence. *See Ibarra-Flores v. Gonzales*, 439 F.3d 614, 618 (9th Cir. 2006). We grant the petition for review and remand.

An intervening change in the law requires us to remand on the issue of continuous physical presence. In *Ibarra-Flores v. Gonzales*, 439 F.3d 614, 619 (9th Cir. 2006), we held that voluntary departure under threat of deportation breaks the accrual of continuous physical presence only where the alien is informed of and accepts the terms of the departure. Barajas Villegas credibly testified that he did not understand the documents he signed. The record contains a signed Request for Disposition form (stating that Barajas Villegas was giving up his right to a hearing before an IJ, his right to apply for relief, and agreeing to return to Mexico) that was provided in English only and Barajas Villegas testified that he could not read any English at that time.

Accordingly, we grant the petition for review and remand for further proceedings consistent with *Ibarra-Flores*.

**PETITION FOR REVIEW GRANTED; REMANDED.**