NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 28 2009

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

SOON HAK BAEK; EUN JOO BAEK; IN HEE BAEK, Petitioners, v. ERIC H. HOLDER Jr., Attorney General, Respondent.	No. 07-74541 Agency Nos. A072-343-511 A072-343-512 A072-343-514 MEMORANDUM[*]

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

Submitted September 14, 2009[**]

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Soon Hak Baek, his wife, Eun Joo Baek, and his daughter, In Hee Baek, natives and citizens of South Korea, petition for review of the Board of Immigration Appeals' ("BIA") order dismissing their appeal from an immigration

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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).

judge's ("IJ") order of removal and denial of a motion to continue. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to continue. *Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246 (9th Cir. 2008) (per curiam). We deny in part and dismiss in part the petition for review.

The IJ did not abuse his discretion in denying petitioners' motion to continue because petitioners' eligibility for relief was speculative and not immediately available. *See id.* at 1247.

We lack jurisdiction to consider petitioners' contention that they are eligible for a waiver because this issue was not exhausted before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.