

DEC 07 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>OSCAR ARTURO SANCHEZ HERNANDEZ; ALMA ROSA LARA BATRES,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 07-71333

Agency Nos. A075-749-304  
A075-749-305

MEMORANDUM\*

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

Submitted November 17, 2009\*\*

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Oscar Arturo Sanchez Hernandez and Alma Rosa Lara Batres, husband and  
wife and natives and citizens of Mexico, petition for review of the Board of

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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 Appeals' ("BIA") order dismissing their appeal from an immigration judge's ("IJ") denial of their applications for cancellation of removal and denying their motion to remand. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo claims of due process violations, *Vasquez-Zavala v. Ashcroft*, 324 F.3d 1105, 1107 (9th Cir. 2003), and we deny in part and dismiss in part the petition for review.

We reject petitioners' contention that the IJ violated due process by denying their motion for an additional continuance. Petitioners received continuances amounting to almost four years to allow them to obtain counsel and gather evidence for their hearing, and their proceedings were therefore not "so fundamentally unfair that [they were] prevented from reasonably presenting [their] case." *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (internal quotation marks and citation omitted).

The evidence petitioners presented with their motion to remand concerned the same basic hardship grounds as their application for cancellation of removal. *See Fernandez v. Gonzales*, 439 F.3d 592, 602-03 (9th Cir. 2006). We therefore

lack jurisdiction to review the BIA's discretionary determination that the evidence was insufficient to establish a prima facie case of hardship. *See id.* at 601.

Petitioners' remaining contentions are unpersuasive.

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