

DEC 08 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MELITON TIRADO-PINEDA,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
--

No. 07-70678

Agency No. A091-610-188

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.

Meliton Tirado-Pineda, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s (“IJ”) removal order. We have jurisdiction pursuant to

* 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).

8 U.S.C. § 1252. We review de novo due process claims, *Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001), and we deny in part and dismiss in part the petition for review.

Tirado-Pineda's contention that the IJ violated his due process rights by refusing to continue his immigration proceedings fails because Tirado-Pineda did not establish "good cause" for a continuance. *See* 8 C.F.R. § 1003.29; *Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for a due process violation). Tirado-Pineda also has not established that he was prejudiced by the denial of a continuance because nothing in the record shows that he was eligible for a § 212(c) waiver or any other relief from removal. *See Vargas-Hernandez v. Gonzales*, 497 F.3d 919, 926 (9th Cir. 2007).

We lack jurisdiction to consider Tirado-Pineda's remaining contentions because he failed to properly exhaust them before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.