

DEC 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DOMINGO NUNEZ-ESPINOZA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 06-71035

Agency No. A092-672-039

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.

Domingo Nunez-Espinoza, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order summarily dismissing his appeal from an immigration judge’s (“IJ”) decision denying his motion for a

* 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).

continuance and his applications for a waiver under former Immigration and Nationality Act § 212(c) and for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion for continuance, *Nakamoto v. Ashcroft*, 363 F.3d 874, 883 n.6 (9th Cir. 2004), and review de novo questions of law, *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000). We deny the petition for review.

The IJ did not abuse his discretion in denying Nunez-Espinoza's motion for a continuance because Nunez-Espinoza did not establish good cause for failing to provide his fingerprints as ordered, and the IJ warned him that failure to comply would result in the denial of his applications. *See Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246-47 (9th Cir. 2008); *cf. Cui v. Mukasey*, 538 F.3d 1289, 1293-95 (9th Cir. 2008). It follows that Nunez-Espinoza's due process claim fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error to establish a due process violation).

PETITION FOR REVIEW DENIED.