

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NOT FOR PUBLICATION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>SARABJIT SINGH,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 06-71386

Agency No. A079-587-819

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.

Sarabjit Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his motion for a continuance. We have jurisdiction

* 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).

under 8 U.S.C. § 1252. Reviewing for abuse of discretion the denial of a motion for a continuance, *Baires v. INS*, 856 F.2d 89, 91 (9th Cir. 1988), we deny the petition for review.

The IJ did not abuse her discretion in denying Singh's motion for a continuance where he claimed he was tired and could not testify properly. *See* 8 C.F.R. § 1003.29 (IJ may grant a motion for continuance for good cause); *Baires*, 856 F.2d at 91.

It follows that Singh's due process claim fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for a petitioner to prevail on a due process claim).

PETITION FOR REVIEW DENIED.