

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NOT FOR PUBLICATION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>JOSEPH NICOLAS SALVADOR,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-74068

Agency No. A097-859-497

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.

Joseph Nicolas Salvador, a native and citizen of the Philippines, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his motion to continue proceedings.

* 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).

We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse of discretion the denial of a continuance and review de novo claims of due process violations, *Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246 (9th Cir. 2008) (per curiam), and we deny the petition for review.

The agency did not abuse its discretion or violate due process by denying Salvador's motion for a continuance because the IJ previously granted two continuances and Salvador's eligibility for an S-visa remained speculative. *See id.* at 1247 (no abuse of discretion or prejudice when an IJ denied a continuance after proceedings were previously continued and where relief remained speculative); *see also Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (to prevail on a due process challenge, an individual must show error and substantial prejudice).

PETITION FOR REVIEW DENIED.