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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>PEDRO AGUILERA MARIN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-70875

Agency No. A095-301-624

MEMORANDUM*

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

Submitted January 11, 2010**

Before: BEEZER, TROTT, and BYBEE, Circuit Judges.

Pedro Aguilera Marin, 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”) order denying his application for cancellation of

* 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).

removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo claims of due process violations in immigration proceedings, *Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246 (9th Cir. 2008) (per curiam), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the agency’s discretionary determination that Aguilera Marin failed to demonstrate exceptional and extremely unusual hardship. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005). Aguilera Marin’s contention that the agency deprived him of due process by misapplying the law to the facts of his case does not state a colorable due process claim. *See id.*

Aguilera Marin contends the IJ violated due process by denying his request for a continuance and by excluding certain evidence regarding his daughter’s medical and psychological condition. Contrary to Aguilera Marin’s contentions, the proceedings were not “so fundamentally unfair that [he] was prevented from reasonably presenting his case.” *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (citation omitted).

We reject Aguilera Marin’s attempt to supplement the record. *See* 8 U.S.C. § 1252(b)(4)(A) (“[T]he court shall decide the petition only on the administrative record on which the order of removal is based.”).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.