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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>APOLINAR DIOSDADO-RIOS,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 08-70323

Agency No. A091-578-436

MEMORANDUM*

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

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Apolinar Diosdado-Rios, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision premitting his application for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review de novo claims

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of constitutional violations in immigration proceedings. *See Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). We deny the petition for review.

Diosdado-Rios' claims that the pretermission of his application for cancellation of removal violated his due process and equal protection rights are unavailing. *See Juarez-Ramos v. Gonzales*, 485 F.3d 509, 511-12 (9th Cir. 2007) (an expedited removal order interrupts continuous physical presence for purposes of cancellation of removal, and Congress is within its discretion in drawing a distinction between those subjected to expedited removal and those who are not); *see also* 8 U.S.C. § 1229b(b)(1); *Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for due process violation).

PETITION FOR REVIEW DENIED.