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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MIGUEL ANTONIO CRUZ-VARGAS,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 08-70169

Agency No. A078-443-346

MEMORANDUM*

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

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Miguel Antonio Cruz-Vargas, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) removal order. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law, *Vasquez-Zavala v.*

* 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).

Ashcroft, 324 F.3d 1105, 1107 (9th Cir. 2003), and for abuse of discretion the denial of a motion for a continuance, *Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246 (9th Cir. 2008) (per curiam). We deny the petition for review.

The BIA properly concluded that Cruz-Vargas was ineligible for Temporary Protected Status because he failed to establish the continuous physical presence and continuous residence requirements for nationals of El Salvador. *See* 8 U.S.C. § 1254a(c)(1)(A)(i)-(ii); *see also* 73 Fed. Reg. 57131 (Oct. 1, 2008). It follows that Cruz-Vargas' due process claim fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and prejudice for a petitioner to prevail on a due process claim).

The IJ did not abuse her discretion in denying Cruz-Vargas' motion to continue where his relief was speculative. *See Sandoval-Luna*, 526 F.3d at 1247 (denial of a motion to continue was not an abuse of discretion where relief was not immediately available to petitioner).

Cruz-Vargas' remaining contention is unpersuasive.

PETITION FOR REVIEW DENIED.