NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GERARDO LEAL-CANETE,	No. 08-71935
Petitioner,	
v.	Agency No. A096-346-384
ERIC H. HOLDER, Jr., Attorney General,	MEMORANDUM[*]
Respondent.	

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

Submitted September 13, 2010[**]

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Gerardo Leal-Canete, 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 denying his application for cancellation of removal

and denying his request for a continuance. We have jurisdiction under 8 U.S.C.

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[*]   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).

§ 1252. We review for abuse of discretion the denial of a request for a continuance and we review de novo claims of due process violations in immigration proceedings. *Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246 (9th Cir. 2008). We deny in part and dismiss in part the petition for review.

The agency did not abuse its discretion by denying Leal Canete's request for a continuance because he did not establish good cause for the continuance. *See Baires v. INS*, 856 F.2d 89, 92-93 (9th Cir. 1988). Leal Canete's due process claim therefore fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring prejudice and error to prevail on a claim of due process).

The agency was not required to reach the issue of physical presence, as its decision on hardship was dispositive. *See* 8 U.S.C. § 1229b(b)(1).

We lack jurisdiction to review the agency's denial of cancellation of removal on hardship grounds. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.