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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CONSTANTIN PISTALU,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-72068

Agency No. A077-906-833

MEMORANDUM*

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

Submitted November 16, 2010**

Before: TASHIMA, BERZON, and CLIFTON, Circuit Judges.

Constantin Pistalu, a native and citizen of Romania, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's removal order. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency's factual determinations, *Hernandez*

* 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).

v. Mukasey, 345 F.3d 824, 832 (9th Cir. 2003), and review de novo due process claims, *Cano Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002). We deny the petition for review.

Substantial evidence supports the agency's determination that Pistalu was inadmissible for having willfully misrepresented a material fact regarding the nature of his first marriage to a United States citizen in order to obtain an immigration benefit. *See* 8 U.S.C. § 1182(a)(6)(C)(i); *Nakamoto v. Ashcroft*, 363 F.3d 874, 882-83 (9th Cir. 2004).

Pistalu's due process claim fails because he did not request a continuance at his last hearing. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for due process claim).

Pistalu's remaining contentions are not persuasive.

PETITION FOR REVIEW DENIED.