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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>NOE RODRIGUEZ-GUDINO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 10-71795

Agency No. A095-789-496

MEMORANDUM*

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

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Noe Rodriguez-Gudino, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to remand and dismissing his appeal from an immigration judge’s (“IJ”) decision denying his request for a continuance. We have jurisdiction under 8 U.S.C. § 1252. We

* 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).

review for abuse of discretion the denial of a continuance and the denial of a motion to remand. *Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246 (9th Cir. 2008) (per curiam); *Romero-Ruiz v. Mukasey*, 538 F.3d 1057, 1062 (9th Cir. 2008). We deny the petition for review.

The IJ did not abuse his discretion by denying a continuance to allow Rodriguez-Gudino to seek post-conviction relief where Rodriguez-Gudino failed to submit any evidence to the IJ that he was pursuing such relief. *See Sandoval-Luna*, 526 F.3d at 1247 (an IJ may grant a continuance for good cause shown). Further, because the denial of the continuance was not error, the denial did not violate Rodriguez-Gudino's due process rights. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) ("To prevail on a due process challenge to deportation proceedings, [a petitioner] must show error and substantial prejudice.").

The BIA did not abuse its discretion by denying Rodriguez-Gudino's motion to remand where the BIA considered the evidence submitted and acted within its broad discretion in determining that the evidence was insufficient to warrant remanding. *See Romero-Ruiz*, 538 F.3d at 1062 (BIA abuses its discretion if its denial of a motion to remand is "arbitrary, irrational, or contrary to law").

Rodriguez-Gudino's remaining contentions are unpersuasive.

PETITION FOR REVIEW DENIED.