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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARTIN RAFAEL DIAZ-AMEZCUA,
a.k.a. Martin Diaz,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 13-70074

Agency No. A088-635-404

MEMORANDUM*

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

Submitted January 21, 2014**

Before: CANBY, SILVERMAN, and PAEZ, Circuit Judges.

Martin Rafael Diaz-Amezcuca, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his motion for a continuance. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the

* 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).

denial of a continuance and review de novo constitutional claims. *Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246 (9th Cir. 2008) (per curiam). We deny the petition for review.

The agency did not abuse its discretion by denying Diaz-Amezcuca's motion for a continuance to await Congress' enactment of immigration reform or to wait for the U.S. Department of Homeland Security to adjudicate his alleged request for prosecutorial discretion, because he failed to demonstrate good cause for a continuance. *See Singh v. Holder*, 638 F.3d 1264, 1274 (9th Cir. 2011) (“[A]n IJ ‘may grant a motion for continuance for good cause shown.’” (citation omitted)). Because there was no error in the agency's decision, it follows that Diaz-Amezcuca's due process rights were not violated. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and prejudice to prevail on due process claim).

PETITION FOR REVIEW DENIED.