

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MAR 20 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JUAN M. CASAS,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 15-71365

Agency No. A095-613-828

MEMORANDUM*

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

Submitted March 13, 2018**

Before: LEAVY, M. SMITH, and CHRISTEN, Circuit Judges.

Juan M. Casas, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision ordering removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the agency's denial of a

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

motion to continue, and review de novo questions of law. *Tawadrus v. Ashcroft*, 364 F.3d 1099, 1102-03 (9th Cir. 2004). We deny in part and dismiss in part the petition for review.

Contrary to Casas' contention, California Health and Safety Code § 11378 is divisible as to the substance involved, *see United States v. Vega Ortiz*, 822 F.3d 1031, 1035 (9th Cir. 2016), and Casas concedes that the record of conviction shows the conviction involved methamphetamine.

To the extent Casas' contends the agency denied his right to counsel and erred in deeming his right to counsel waived, the record does not support these contentions, where he expressly asked to proceed pro se, and he twice declined the IJ's offer to order Casas' attorney to appear in court. *See Tawadrus*, 364 F.3d at 1103.

We lack jurisdiction to consider Casas' unexhausted contention regarding the denial of his continuance request. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010).

Casas' renewed motion for a stay of removal (Docket Entry No. 21) is denied as moot.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.