

JUL 10 2008

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LAZARO RODRIGUEZ-ALVARADO,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
--

No. 05-72023

Agency No. A95-305-118

MEMORANDUM*

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

Submitted July 1, 2008**

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Lazaro Rodriguez-Alvarado, 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 denying his application for

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

cancellation of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo claims of constitutional violations in immigration proceedings. *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). We deny in part and dismiss in part the petition for review.

We are not persuaded that the qualifying relative requirement for cancellation of removal violates equal protection. *See Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 602-03 (9th Cir. 2002) ("[L]ine-drawing decisions made by Congress or the President in the context of immigration and naturalization must be upheld if they are rationally related to a legitimate government purpose." (internal quotation marks and citation omitted)).

Rodriguez-Alvarado contends that the IJ violated due process by denying a continuance. Contrary to his contention, the proceedings were not "so fundamentally unfair that [he] was prevented from reasonably presenting his case." *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (citation omitted). Moreover, Rodriguez-Alvarado failed to demonstrate that the absence of additional evidence may have affected the outcome of the proceedings. *See id.* (requiring prejudice to prevail on a due process challenge).

We lack jurisdiction to review Rodriguez-Alvarado's contention that the IJ deprived him of a full and fair hearing by failing to accept medical

documentation and denying his witnesses an opportunity to testify because he failed to raise it before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (due process challenges that are “procedural in nature” must be exhausted).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.