

MAR 31 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>VERONICA HERNANDEZ MORALES; HAFID ORTIZ HERNANDEZ,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 06-75171

Agency Nos. A079-537-514
A079-537-515

MEMORANDUM*

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

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Veronica Hernandez Morales and Hafid Ortiz Hernandez, natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals' order dismissing their appeal from an immigration judge's ("IJ") removal

* 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).

order. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion an IJ's denial of a motion to continue, *Baires v. INS*, 856 F.2d 89, 91 (9th Cir. 1988), and we deny the petition for review.

The IJ did not abuse her discretion in denying petitioners' request for a continuance because their case had been pending for four years and the recent evaluation of lead petitioner's youngest child, which the IJ had before her, indicated that he did not meet the criteria for a special learning disability. *See id.*

Petitioners' due process challenge fails because the IJ did not abuse her discretion and because petitioners did not demonstrate prejudice. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and prejudice for a petitioner to prevail on a due process claim).

PETITION FOR REVIEW DENIED.