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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AHMAD REZA ARDESTANI ROSTAMABA, Petitioner, v. ERIC H. HOLDER, Jr., Attorney General, Respondent.	No. 06-74461 Agency No. A077-305-023 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.

Ahmad Reza Ardestani Rostamaba, a native and citizen of Iran, and a citizen of Canada, petitions for review of the Board of Immigration Appeals' ("BIA")

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[*] 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).

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order dismissing his appeal from an immigration judge's ("IJ") decision denying his request for a continuance for failure to prosecute his asylum, withholding of removal, and Convention Against Torture claims. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion for a continuance, *Nakamoto v. Ashcroft*, 363 F.3d 874, 883 n.6 (9th Cir. 2004), and de novo questions of law, *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000). We deny the petition for review.

The IJ instructed Rostamaba to submit himself for fingerprinting and informed him of the consequences of a failure to do so, yet nearly one year later Rostamaba could not provide a reasonable explanation for his failure to comply with this requirement. Accordingly, we conclude that the IJ did not abuse his discretion in denying Rostamaba's request for a continuance to submit updated fingerprints. *See Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246-47 (9th Cir. 2008); *cf. Cui v. Mukasey*, 538 F.3d 1289, 1293-95 (9th Cir. 2008).

We reject Rostamaba's contention regarding the application of 8 C.F.R. § 208.1 to removal proceedings before the IJ.

In light of the foregoing, we also reject Rostamaba's claim that the IJ violated his due process rights by making a determination of his claim without

conducting an evidentiary hearing. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error to establish a due process violation).

PETITION FOR REVIEW DENIED.