

SEP 24 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DUNG KIEN TANG, a.k.a. Dung Tang,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 08-72232

Agency No. A041-967-768

MEMORANDUM*

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

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Dung Kien Tang, a native and citizen of Laos, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for 212(c) relief for failure to

* 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).

prosecute. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law, including due process claims, *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001), and we review for abuse of discretion the denial of an application for relief for failure to comply with fingerprinting regulations, *Cui v. Mukasey*, 538 F.3d 1289, 1291-92 (9th Cir. 2008). We deny the petition for review.

The IJ did not abuse his discretion by denying Tang's request for a continuance and his application for 212(c) relief. The IJ instructed Tang in both oral and written format to submit himself for fingerprinting and informed him of the consequences of a failure to do so, yet Tang could not provide a reasonable explanation for his failure to comply with the fingerprinting requirement. *See* 8 C.F.R. § 1003.47(d). Accordingly, Tang has not established good cause for his failure to comply. *See* 8 C.F.R. § 1003.47(c); *cf. Cui*, 538 F.3d at 1293-99. Tang's due process contention fails as well. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring agency error for a petitioner to establish a violation of due process).

PETITION FOR REVIEW DENIED.