

OCT 25 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FORTINO DIMAS-CRISTOBAL,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-72790

Agency No. A097-818-210

MEMORANDUM*

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

Submitted October 19, 2010**

Before: O'SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Fortino Dimas-Cristobal, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeal's order dismissing his appeal from an immigration judge's decision denying is application for cancellation of removal.

We have jurisdiction under 8 U.S.C. § 1252. We review de novo claims of

* 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).

constitutional violations in immigration proceedings, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we deny the petition for review.

Dimas-Cristobal's due process claim regarding the admission of expedited removal and voluntary departure documents on the day of his merits hearing fails because he failed to demonstrate prejudice. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring prejudice for a petitioner to prevail on a due process claim); *see also Juarez-Ramos v. Gonzales*, 485 F.3d 509, 512 (9th Cir. 2007) (an expedited removal order interrupts an alien's continuous physical presence for purposes of cancellation of removal).

PETITION FOR REVIEW DENIED.