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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SABINA AYALA AYALA; MARTIN A. MALDONADO; HUMBERTO MALDONADO,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>MICHAEL B. MUKASEY,** Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 04-73947

Agency Nos. A95-414-997  
A95-414-998  
A95-414-999

MEMORANDUM \*

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

Submitted November 13, 2007 \*\*\*

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

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

\*\* Michael B. Mukasey is substituted for his predecessor, Alberto R. Gonzales, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

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

Sabina Ayala Ayala and her two sons, Martin and Humberto Maldonado, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order deny their motion to remand based on ineffective assistance of counsel and dismissing their appeal from the Immigration Judge's order denying cancellation of removal. We have jurisdiction pursuant 8 U.S.C. § 1252. We grant the petition for review and remand.

The government requests remand in order for the BIA to reconsider its decision in light of the affidavit of Ayala's former counsel, Frank Kim. Accordingly, we grant the petition for review and remand to the BIA.

**PETITION FOR REVIEW GRANTED; REMANDED.**