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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE LUIS MARTINEZ HERNANDEZ,

Petitioner,

v.

MICHAEL B. MUKASEY,

Respondent.

No. 05-76099

Agency No. A75-718-443

MEMORANDUM\*

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

Submitted January 14, 2008 \*\*

Before: HALL, O’SCANNLAIN, and PAEZ, Circuit Judges.

Jose Luis Martinez Hernandez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to remand. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse

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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).

of discretion the denial of a motion to remand. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003). We deny the petition for review.

The BIA did not abuse its discretion in denying the motion to remand where Martinez Hernandez did not demonstrate prima facie eligibility for adjustment of status. *See id.* at 994.

**PETITION FOR REVIEW DENIED.**