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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>NAIRA NADIROVNA GUSEINOVA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 05-71687

Agency No. A071-103-694

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.

Naira Nadirovna Guseinova, a native and citizen of Armenia, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing her appeal from an immigration judge’s (“IJ”) removal order. We have jurisdiction under 8

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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).

U.S.C. § 1252, and we grant the petition for review and remand for further proceedings.

The BIA determined that Guseinova's failure to provide her fingerprints prior to her removal hearing was a sufficient reason for the IJ to deem her relief applications abandoned. The BIA, however, did not have the benefit of our intervening decision in *Cui v. Mukasey*, 538 F.3d 1289 (9th Cir. 2008), which held that the denial of a motion to continue for fingerprint processing prior to April 1, 2005 (the effective date of 8 C.F.R. § 1003.47) may be an abuse of discretion. We therefore remand for the BIA to reconsider its dismissal of Guseinova's appeal. *See id.* at 1292-95; *see also Karapetyan v. Mukasey*, 543 F.3d 1118, 1129-32 (9th Cir. 2008).

In light of our disposition, we do not address Guseinova's remaining contentions.

**PETITION FOR REVIEW GRANTED; REMANDED.**