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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DANIEL ARISTIDES CAMPOS-PINEDA, Petitioner, v. ERIC H. HOLDER, Jr., Attorney General, Respondent.	No. 05-76990 Agency No. A072-940-558 MEMORANDUM[*]

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

Submitted April 13, 2009[**]

Before: GRABER, GOULD, and BEA, Circuit Judges.

Daniel Aristides Campos-Pineda, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's removal order. We have

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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).

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jurisdiction pursuant to 8 U.S.C. § 1252, and we grant the petition for review and remand for further proceedings.

The BIA determined that Campos-Pineda's failure to resubmit his fingerprints was a sufficient reason to deny his application for cancellation of removal. 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 continuance for fingerprint processing prior to April 2005 may be an abuse of discretion. We therefore remand for the BIA to reconsider its dismissal of Campos-Pineda'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 need not address Campos-Pineda's due process contention.

PETITION FOR REVIEW GRANTED; REMANDED.