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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LUIS SANTIAGO; MARIA LUISA  
OSORIO DE SANTIAGO,

Petitioners,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 05-72045

Agency Nos. A075-651-280  
A075-648-428

MEMORANDUM\*

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

Submitted June 16, 2009\*\*

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Luis Santiago and Maria Luisa Osorio De Santiago, husband and wife and natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order summarily affirming an immigration judge's ("IJ")

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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).

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

The IJ determined that petitioners' failure to resubmit their fingerprints was a sufficient reason to deny their applications for cancellation of removal. The agency, 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 petitioners' appeal. *See id.* at 1292-95; *see also Karapetyan v. Mukasey*, 543 F.3d 1118, 1129-32 (9th Cir. 2008).

**PETITION FOR REVIEW GRANTED; REMANDED.**