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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARCELO ALVARES FLORES, Petitioner, v. ERIC H. HOLDER Jr., Attorney General, Respondent.	No. 06-75418 Agency No. A096-069-641 MEMORANDUM[*]

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

Submitted September 14, 2009[**]

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Marcelo Alvares Flores, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen or reconsider. Our jurisdiction is governed by 8 U.S.C. § 1252. Reviewing

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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).

for abuse of discretion, *Oh v. Gonzales*, 406 F.3d 611, 612 (9th Cir. 2005), we grant the petition for review.

An immigration judge determined that Alvares Flores's failure to submit his fingerprints far enough in advance of his hearing was sufficient reason to deny his application for cancellation of removal. The BIA denied reconsideration of its order dismissing the underlying appeal, concluding that Alvares Flores had adequate notice of the requirements for completing his application. 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 refusing to continue proceedings for fingerprint processing may be an abuse of discretion. We therefore remand for the BIA to reconsider its denial of the motion. *See id.* at 1292-95; *see also Karapetyan v. Mukasey*, 543 F.3d 1118, 1129-32 (9th Cir. 2008).

PETITION FOR REVIEW GRANTED; REMANDED.