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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARCO AURELIO CASTELLANOS-GARCIA,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 07-74857

Agency No. A072-514-327

MEMORANDUM*

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

Submitted July 19, 2010**

Before: B. FLETCHER, REINHARDT, and WARDLAW, Circuit Judges.

Marco Aurelio Castellanos-Garcia, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s removal order. We have

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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

Because the BIA decided this case without the benefit of our decision in *Mercado-Zazueta v. Holder*, 580 F.3d 1102, 1113-1116 (9th Cir. 2009) (recognizing the ongoing validity of *Cuevas-Gaspar v. Gonzales*, 430 F.3d 1013, 1029 (9th Cir. 2005) (a parent’s admission for permanent resident status is imputed to the parent’s unemancipated minor children residing with the parent for the purpose of satisfying the seven-years of continuous residence “after having been admitted in any status”)), we remand to the BIA to allow it to reconsider Castellanos-Garcia’s appeal. *See generally INS v. Ventura*, 537 U.S. 12 (2002) (per curiam).

In light of our disposition, we do not reach Castellanos-Garcia’s equal protection challenge.

PETITION FOR REVIEW GRANTED; REMANDED.