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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WALTER DE JESUS MONTERROSA-
CRUZ, a.k.a. Walter De Jesus Monterrosa,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-73071

Agency No. A037-222-334

MEMORANDUM*

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

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Walter De Jesus Monterrosa-Cruz, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order summarily affirming his appeal from an immigration judge's removal order. We have jurisdiction under 8 U.S.C. § 1252. We grant the petition for review and remand.

* 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).

The agency denied Monterrosa-Cruz's request for relief under former section 212(c), 8 U.S.C. § 1182(c) (repealed 1996), for failure to submit his fingerprints by the deadline imposed by the IJ. *See* 8 C.F.R. § 1003.47(c). 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 remand for the agency to reconsider its denial of Monterrosa-Cruz's application in light of *Cui*. *See* 538 F.3d at 1292-95; *see also Karapetyan v. Mukasey*, 543 F.3d 1118, 1129-32 (9th Cir. 2008).

PETITION FOR REVIEW GRANTED; REMANDED.