

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 8 2023

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MARCELINO MEDINA-MUNGIA,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 21-401

Agency No.
A205-991-844

MEMORANDUM*

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

Submitted July 18, 2023 **

Before: SCHROEDER, RAWLINSON, and BADE, Circuit Judges.

Marcelino Medina-Mungia, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to remand removal proceedings. We have jurisdiction under 8 U.S.C. § 1252.

We review for abuse of discretion the denial of a motion to remand. *Movsisian*

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

v. Ashcroft, 395 F.3d 1095, 1098 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying the motion to remand where Medina-Mungia failed to establish prima facie eligibility for relief. *See Rodriguez v. INS*, 841 F.2d 865, 867 (9th Cir. 1987) (“The formal requirements of the motion to reopen and those of the motion to remand are for all practical purposes the same.”); *Ramirez-Munoz v. Lynch*, 816 F.3d 1226, 1228 (9th Cir. 2016) (BIA may deny a motion to reopen for failure to establish prima facie eligibility for the underlying relief sought).

The temporary stay of removal remains in place until the mandate issues.

PETITION FOR REVIEW DENIED.