

NOV 23 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARIA APARACIDA LACERDA,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 08-74333

Agency No. A075-110-821

MEMORANDUM*

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

Submitted November 16, 2010**

Before: TASHIMA, BERZON, and CLIFTON, Circuit Judges.

Maria Aparacida Lacerda, a native and citizen of Brazil, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing her appeal from an immigration judge’s decision denying her application for cancellation of removal.

We have jurisdiction under 8 U.S.C. § 1252, *Figueroa v. Mukasey*, 543 F.3d 487,

* 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).

496 (9th Cir. 2008), and we grant the petition for review and remand for further proceedings.

In denying Lacerda's cancellation application, the agency failed to consider the potential hardship Lacerda's two United States citizen children would suffer if Lacerda is removed to Brazil and her children are required to remain in the United States pursuant to a custody order. *See Cabrera-Alvarez v. Gonzales*, 423 F.3d 1006, 1012 (9th Cir. 2005) ("When the children will not accompany the removed parent, the agency must evaluate the hardship caused by that separation.").

We need not reach Lacerda's remaining contentions.

We grant the petition for review and remand to the BIA for further proceedings.

PETITION FOR REVIEW GRANTED; REMANDED.