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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SALVA ESTRADA ALVAREZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 10-72549

Agency No. A070-644-302

MEMORANDUM*

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

Submitted March 6, 2012**

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

Salva Estrada Alvarez, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to remand. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to remand, *Romero-Ruiz v. Mukasey*, 538 F.3d

* 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).

1057, 1062 (9th Cir. 2008), and we deny the petition for review.

The BIA did not abuse its discretion in denying Estrada Alvarez’s motion to remand to apply for cancellation of removal based on his marriage to a lawful permanent resident where Estrada Alvarez failed to submit any evidence of exceptional and extremely unusual hardship, and therefore did not show prima facie eligibility for relief. *See Partap v. Holder*, 603 F.3d 1173, 1175 (9th Cir. 2010) (per curiam) (no abuse of discretion in denying motion to remand to apply for cancellation after the birth of a U.S. citizen child where petitioner “did not tender any evidence showing exceptional and extremely unusual hardship”) (internal quotation marks omitted).

Estrada Alvarez’s contention that it is improper for the BIA to make a prima facie hardship determination in ruling on a motion to remand is unavailing. *See id.*

PETITION FOR REVIEW DENIED.