

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 20 2009

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

JOSE ANTONIO MATA MATA; et al.,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-71520

Agency Nos. A041-388-909
A043-953-783
A044-572-450
A044-763-447

MEMORANDUM*

JOSE ANTONIO MATA MATA; et al.,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-73548

Agency Nos. A041-388-909
A043-953-783
A044-572-450
A044-763-447

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

Argued and Submitted May 4, 2009
Pasadena, California

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

Before: HALL, KLEINFELD and SILVERMAN, Circuit Judges.

Husband and wife, Jose Antonio Mata Mata and Marcelina Sanchez De Mata, and their two sons, Juan Jose Mata Sanchez and Ricardo Mata Sanchez (collectively “Petitioners”) petition for review of the Board of Immigration Appeals’s (“BIA”) decision that they were removable under 8 U.S.C. § 1182(a)(6)(C)(I). We have jurisdiction pursuant to 8 U.S.C. § 1252. The parties know the facts, and we need not recite them here. We grant the petition.

Because the Government has conceded there was no evidence of Petitioners’ knowledge and offered no argument as to knowledge, we find no substantial evidence supporting the Immigration Judge’s conclusion that Petitioners were removable because they procured admission into the United States by fraud or willful misrepresentation. *See* 8 U.S.C. § 1182(a)(6)(C)(i); *Matter of G-G-*, 7 I. & N. Dec. 161, 164–65 (BIA 1956) (construing § 1182(a)(6)(C)(i)’s predecessor to require a petitioner’s knowledge of falsity for both fraud and willful misrepresentation); *Forbes v. INS*, 48 F.3d 439, 442 (9th Cir. 1995) (stating that a petitioner’s knowledge of falsity satisfies § 1182(a)(6)(C)(i)’s fraud or willful misrepresentation requirement). For this reason, we need not reach Petitioners’ other issues, including the BIA’s decision on the motion to reopen, except to say that there was no error in the admission of Mata’s Mexican birth certificate. *See Espinoza v. INS*, 45 F.3d 308, 310 (9th Cir. 1995).

We thus **GRANT** the petition and **REMAND** for a decision on the Government's alternate ground for removal, the failure to possess valid entry documents under 8 U.S.C. § 1182(a)(7)(A)(i)(I).