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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA DE LA LUZ GUTIERREZ-  
MUNOZ; JOSE MARCELINIO  
ESTEVEZ CANCHOLA,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-74763

Agency Nos. A077-110-767  
A073-993-889

MEMORANDUM\*

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

Submitted June 16, 2009\*\*

Before: PAEZ, TALLMAN and N.R. SMITH, Circuit Judges.

Maria De La Luz Gutierrez-Munoz and Jose Marcelinio Esteves Canchola,  
married natives and citizens of Mexico, petition for review of the Board of

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

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

Immigration Appeals' ("BIA") order sustaining the government's appeal of an immigration judge's decision granting their applications for cancellation of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo claims of due process violations, *Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the BIA's discretionary determination that petitioners failed to establish exceptional and extremely unusual hardship. *See Martinez-Rosas*, 424 F.3d at 930.

Petitioners' contention that the BIA violated due process by applying intervening BIA decisions without providing them with notice or an opportunity to respond is foreclosed by *Theogene v. Gonzales*, 411 F.3d 1107, 1112-1113 (9th Cir. 2005).

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**