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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GILBERTO JESUS BAUTISTA-
MORENO; et al.,

Petitioners,

v.

ERIC HOLDER, Jr., Attorney General,

Respondent.

No. 08-70850

Agency Nos. A095-301-746

A095-301-747

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.

Gilberto Jesus Bautista-Moreno, and his wife Teresa De Jesus Cordero-
Medrano, natives and citizens of Mexico, petition pro se for review of the Board of

* 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' denial of their motion to reopen removal proceedings, arising from the underlying denial of their applications for cancellation of removal based on their failure to establish the requisite hardship to their qualifying relatives.

Petitioners contend that the BIA and immigration judge erred in not finding exceptional and extremely unusual hardship to their two United States children if petitioners were removed because in their motion to reopen: the petitioners presented evidence that the female petitioner has been diagnosed with cancer and her medical treatment in Mexico would result in hardship to the entire family; and petitioners presented evidence that the children would suffer educational and emotional difficulties if they were to return to Mexico.

We review the denial of a motion to reopen for abuse of discretion, and we will reverse only if the agency's decision was "arbitrary, irrational, or contrary to law." *Valeriano v. Gonzales*, 474 F.3d 669, 672 (9th Cir. 2007). The BIA held, and our review of the record confirms, that petitioners failed to submit any evidence with their motion to reopen, supporting their assertion of the female respondent's cancer diagnosis. *See Romero-Ruiz v. Mukasey*, 538 F.3d 1057, 1063 (9th Cir. 2008). We also agree with the BIA's conclusion that the hardship claim regarding the children's educational and emotional hardship was merely a

reiteration of concerns previously raised before the BIA. *See* 8 C.F.R. § 1003.2(c)(1). The BIA therefore did not abuse its discretion by denying petitioners' motion to reopen.

We do not consider petitioners' contentions regarding the immigration judge's failure to make findings regarding petitioners' good moral character, lack of previous convictions, or their ten years continuous presence in the United States because that argument is not properly before us in our review of the BIA's denial of the motion to reopen.

PETITION FOR REVIEW DENIED.