

AUG 31 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARTIN VEGA CABALLERO; MARTHA PATRICIA ALVARADO GUERRERO,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
--

No. 06-72837

Agency Nos. A095-305-100
A095-305-101

MEMORANDUM*

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

Submitted August 20, 2009**

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Martin Vega Caballero and Martha Patricia Alvarado Guerrero, husband and wife and natives and citizens of Mexico, petition 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' ("BIA") order denying their motion to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion by denying petitioners' motion to reopen because the BIA considered the evidence they submitted and acted within its broad discretion in determining that the evidence was insufficient to warrant reopening. *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002) (BIA's denial of a motion to reopen shall be reversed only if it is "arbitrary, irrational, or contrary to law.").

We do not consider petitioners' contentions that they did not receive notice of their hearing, and were improperly removed in absentia, because these claims were addressed in *Vega v. Gonzales*, No. 04-71172 (9th Cir. Jan. 12, 2006).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.