

SEP 02 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOEL CERVANTES ARROYO; SILVIA CONTRERAS CRUZ; JOEL CERVANTES CONTRERAS; EDITH CERVANTES CONTRERAS,</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. 07-73826

Agency Nos. A095-451-323
A095-451-324
A095-451-325
A095-451-326

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.

Joel Cervantes Arroyo, Silvia Contreras Cruz, and their two adult children,
natives and citizens of Mexico, petition for review of the Board of Immigration

* 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).

Appeals' ("BIA") order denying their motion to reopen. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we grant the petition for review.

The BIA abused its discretion because it failed to provide "specific and cogent reasons for its decision" denying petitioners' motion to reopen to present new evidence regarding petitioner Silvia Contreras Cruz's medical condition. *See Movsisian v. Ashcroft*, 395 F.3d 1095, 1098 (9th Cir. 2005). The BIA failed to provide a reasoned explanation and instead merely restated the standard of "prima facie eligibility" rather than explaining why petitioners failed to meet that standard. *See Rodriguez-Lariz v. INS*, 282 F.3d 1218, 1227 (9th Cir. 2002) (reversing denial of a motion to reopen where the BIA "merely repeated petitioners' claims and summarily dismissed them"). We therefore grant the petition for review and remand for reconsideration of petitioners' motion to reopen.

Because we remand this matter to the BIA, we do not address petitioners' remaining contentions.

The government shall bear the costs for this petition for review.

PETITION FOR REVIEW GRANTED; REMANDED.