

DEC 07 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ANTONIO SILVA MARTINEZ; MARIA LUISA SILVA,</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. 07-70164

Agency Nos. A096-052-416
A096-052-417

MEMORANDUM*

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

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Antonio Silva Martinez and Maria Luisa Silva, natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen proceedings. We have jurisdiction under 8

* 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).

U.S.C. § 1252. We review for abuse of discretion the denial of motion to reopen, *Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002), and we review de novo claims of constitutional violations in immigration proceedings, *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). We deny the petition for review.

The BIA did not abuse its discretion in denying the petitioners' motion to reopen because the petitioners failed to establish that the alleged ineffective assistance of a notario may have affected the outcome of their proceedings. *See Maravilla Maravilla v. Ashcroft*, 381 F.3d 855, 858 (9th Cir. 2004) (to establish ineffective assistance of counsel constituting a due process violation, petitioners must demonstrate that they were prejudiced by their counsel's performance).

PETITION FOR REVIEW DENIED.