

DEC 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MIGUEL RIOS CARBAJAL; LILIA
SALGADO CARILLO,

Petitioners,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-70351

Agency Nos. A075-644-019

A075-644-020

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

Miguel Rios Carbajal and Lilia Salgado Carillo, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to remand and adopting and affirming an immigration judge’s

* 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).

decision denying their cancellation of removal applications. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to remand. *Romero-Ruiz v. Mukasey*, 538 F.3d 1057, 1062 (9th Cir. 2008). We deny the petition for review.

The BIA did not abuse its discretion in denying petitioners' motion to remand for failure to demonstrate that the additional evidence submitted with their motion "was not available and could not have been discovered or presented" at their hearing. 8 C.F.R. § 1003.2(c)(1); *see also Goel v. Gonzales*, 490 F.3d 735, 738 (9th Cir. 2007) (per curiam) (evidence capable of being discovered prior to the hearing cannot serve as the basis for a motion to reopen). Contrary to petitioners' contention, the BIA provided a reasoned explanation for its decision to deny petitioners' motion.

PETITION FOR REVIEW DENIED.