

DEC 30 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE LUIS CORREA RODRIGUEZ;
FIDELA MARIA MARTINEZ,

Petitioners,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-72652

Agency Nos. A097-361-223
A097-361-224

MEMORANDUM*

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

Submitted December 15, 2009**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Jose Luis Correa Rodriguez and Fidela Maria Martinez, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

review for abuse of discretion the denial of a motion to reopen, *Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002), and 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 acted within its broad discretion in determining that the evidence presented with the motion to reopen was insufficient to warrant reopening. *See Singh*, 295 F.3d at 1039 (BIA’s denial of a motion to reopen shall be reversed only if it is “arbitrary, irrational, or contrary to law”). It follows that petitioners’ due process claim fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for a petitioner to prevail on a due process claim).

PETITION FOR REVIEW DENIED.