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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RAUL PORFIRIO AMADOR-GARCIA; et al.,</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. 06-75598

Agency Nos. A076-844-525
A076-844-526
A076-844-528

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.

Raul Porfirio Amador-Garcia, Rosa Maria Alvarez, and their son, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals (“BIA”) order dismissing their appeal from an immigration judge’s (“IJ”) removal

* 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).

order. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the BIA's decision to summarily dismiss an appeal, *Singh v. Gonzales*, 416 F.3d 1006, 1009 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

Contrary to the government's contention, the BIA's November 17, 2006, order was the final order of removal because the BIA previously remanded for the entry of a removal order, *see generally Molina-Camacho v. Ashcroft*, 393 F.3d 937 (9th Cir. 2004), *overruled by Lolong v. Gonzales*, 484 F.3d 1173 (9th Cir. 2007) (en banc), and petitioners filed a timely notice of appeal from the IJ's decision on remand, *see* 8 U.S.C. § 1101(a)(47)(B). The petition for review is therefore timely. *See* 8 U.S.C. § 1252(b)(1) ("The petition for review must be filed not later than 30 days after the date of the final order of removal.").

The BIA did not abuse its discretion in summarily dismissing petitioners' appeal from an IJ's order granting petitioners the voluntary departure relief they requested. *See* 8 C.F.R. § 1003.1(d)(2)(i)(C).

We lack jurisdiction to consider petitioners' remaining contentions because petitioners did not exhaust them before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.