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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDGAR ALBERTO PORTILLO-
NOLASCO; et al.,

Petitioners,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-72836

Agency Nos. A079-656-200
A079-656-190

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.

Edgar Alberto Portillo-Nolasco and Maria Gomez-Portillo, natives and citizens of El Salvador, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to reopen removal proceedings based on

* 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).

ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen and review de novo due process claims. *Lin v. Ashcroft*, 377 F.3d 1014, 1023 (9th Cir. 2004). We deny the petition for review.

The BIA did not abuse its discretion by denying petitioners' motion to reopen because petitioners have not established prejudice from the alleged ineffective assistance. *See id.* at 1024 (challenges based on ineffective assistance of counsel require showing of prejudice). Petitioners' motion does not explain what additional evidence they would present to establish a nexus to a protected ground. *See Ortiz v. INS*, 179 F.3d 1148, 1153-54 (9th Cir. 1999).

We may not consider petitioners' new evidence regarding current conditions in El Salvador. *See* 8 U.S.C. § 1252(b)(4)(A) (“[T]he court of appeals shall decide the petition only on the administrative record on which the order of removal is based.”).

PETITION FOR REVIEW DENIED.