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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>JOSE LUIS JUAREZ-ZAMORANO; GABRIELA MURILLO JUAREZ,</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> |
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No. 07-71744

Agency Nos. A076-844-289
A076-844-290

MEMORANDUM*

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

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Jose Luis Juarez-Zamorano and Gabriela Murillo Juarez, married natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen removal proceedings. Our

* 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).

jurisdiction is governed by 8 U.S.C. § 1252. Reviewing for abuse of discretion, *Valeriano v. Gonzales*, 474 F.3d 669, 672 (9th Cir. 2007), we deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion by denying petitioners' motion to reopen as untimely, because it was filed more than two years after the BIA's final order, *see* 8 C.F.R. § 1003.2(c)(2), and petitioners failed to establish that they warranted equitable tolling, *see Valeriano*, 474 F.3d at 674-75.

We lack jurisdiction to review the BIA's decision not to invoke its sua sponte authority to reopen proceedings. *Ekimian v. INS*, 303 F.3d 1153, 1157-59 (9th Cir. 2002).

We also lack jurisdiction to review whether the BIA properly reduced petitioners' voluntary departure period in its January 8, 2004 order, because this petition is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1); *see also Membreno v. Gonzales*, 425 F.3d 1227, 1229 (9th Cir. 2005).

Petitioners' contention that the BIA failed to adequately explain its reasons for denying the motion to reopen is not supported by the record.

Petitioners' motion for stay of voluntary departure is denied.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.