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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NOT FOR PUBLICATION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>ALEJANDRO MONTES MONTES; et al.,</p> <p>Petitioners,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p> |
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No. 07-71690

Agency Nos. A075-706-457
A075-706-458

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.

Alejandro Montes Montes and Jenny Segura Adame, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen based on ineffective assistance of counsel. 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).

have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse of discretion the BIA's denial of a motion to reopen. *Singh v. Gonzales*, 491 F.3d 1090, 1095 (9th Cir. 2007). We deny the petition for review.

Petitioners filed their sixth motion to reopen untimely, 8 C.F.R. § 1003.23(b)(4)(ii), and failed to establish that they exercised due diligence so as to warrant equitably tolling the statutory filing deadline and numerical bar, *see Singh*, 491 F.3d at 1096-97.

PETITION FOR REVIEW DENIED.