

FEB 24 2010

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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NOT FOR PUBLICATION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 ARREOLA-ALVARADO; 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> |
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No. 07-74644

Agency Nos. A097-356-903
A097-356-904

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 Arreola-Alvarado and Virginia Nieto-Flores, 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 under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Reyes v. Ashcroft*, 358 F.3d 592, 595 (9th Cir. 2004), and we deny the petition for review.

The BIA did not abuse its discretion in denying Petitioners' second motion to reopen as time- and number-barred because it was filed approximately one year and six months after the BIA's final order of removal. *See* 8 U.S.C.

§§ 1229a(c)(7)(A) & (C)(i). Petitioners did not show they were entitled to equitable tolling because they failed to comply with the requirements set forth in *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988). *See Reyes*, 358 F.3d at 598-99.

Petitioners' motion for a stay of their voluntary departure period is denied.

PETITION FOR REVIEW DENIED.