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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LUIS ROMERO RODRIGUEZ; ANTONIA CORDOVA ROMERO,</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. 06-70067

Agency Nos. A075-475-746
A075-475-750

MEMORANDUM*

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

Submitted March 16, 2010**

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

Luis Romero Rodriguez and Antonia Cordova Romero, husband and wife and natives and citizen 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, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), we deny in part and dismiss in part the petition for review.

The BIA acted within its discretion in denying petitioners' motion as untimely because it was filed almost two years after the BIA's final removal order. *See* 8 C.F.R. § 1003.2(c)(2) (motion to reopen must be filed no later than 90 days after the final administrative decision was rendered).

We lack jurisdiction to review the BIA's decision not to exercise its sua sponte authority to reopen petitioners' case, and we not persuaded by petitioners' attempts to circumvent this jurisdictional bar. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002) (noting that "the decision of the BIA whether to invoke its sua sponte authority is committed to its unfettered discretion") (italics and internal citations omitted).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.