

APR 13 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GERARDO GOMEZ SALGADO;  
ESTHER FRANCO DE GOMEZ,

Petitioners,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

Nos. 06-71665  
06-73051

Agency Nos. A077-843-790  
A077-843-791

MEMORANDUM \*

On Petitions for Review of Orders of the  
Board of Immigration Appeals

Submitted April 5, 2010\*\*

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

In these consolidated petitions, Gerardo Gomez Salgado and Esther Franco de Gomez, husband and wife and natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion

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\* 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).

to reopen removal proceedings, and their subsequent motion to reconsider. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen and reconsider. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We deny the petitions for review.

The BIA did not abuse its discretion by denying petitioners' motion to reopen, because the BIA considered the evidence they submitted and acted within its broad discretion in determining that the evidence was insufficient to warrant reopening. *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002) (The BIA's denial of a motion to reopen shall be reversed only if it is "arbitrary, irrational or contrary to law.").

The BIA was within its discretion in denying petitioners' motion to reconsider because the motion failed to identify any error of fact or law in the BIA's prior decision denying their motion to reopen. *See* 8 C.F.R. § 1003.2(b)(1); *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1180 n.2 (9th Cir. 2001) (en banc). Construed as a second motion to reopen, the BIA correctly determined that the motion was barred by the regulatory limitations on motions to reopen. *See* 8 C.F.R. § 1003.2(c)(2).

**PETITIONS FOR REVIEW DENIED.**