

APR 14 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARIA MERCED RESENDIZ DE ROLDAN; 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. 07-74402

Agency Nos. A076-860-402  
A076-860-405  
A076-860-407

MEMORANDUM \*

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

Submitted April 5, 2010\*\*

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

Maria Merced Resendiz De Roldan, Apolonia Roldan-Resendiz, and Mirella Roldan-Resendiz, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen based on

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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).

ineffective assistance of counsel. We have jurisdiction pursuant to 8 U.S.C. § 1252. Reviewing for abuse of discretion, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), we deny the petition for review.

The BIA did not abuse its discretion in denying petitioners' motion to reopen because the motion was filed more than two years after the BIA's June 3, 2005, order dismissing the underlying appeal, *see* 8 C.F.R. § 1003.2(c)(2), and petitioners failed to demonstrate grounds for equitable tolling, *see Iturribarria*, 321 F.3d at 897 (equitable tolling available "when a petitioner is prevented from filing because of deception, fraud, or error, as long as the petitioner acts with due diligence"); *see also Singh v. Gonzales*, 491 F.3d 1090, 1096-97 (9th Cir. 2007).

In light of our disposition, we do not reach petitioners' remaining contentions.

**PETITION FOR REVIEW DENIED.**