

JUN 01 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>VASILII YURYEVICH SALMIN; PAVEL YURYEVICH SALMIN,</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. 07-73353

Agency Nos. A096-345-863
A096-344-270

MEMORANDUM*

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

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Vasilii Yuryevich Salmin and Pavel Yuryevich Salmin, natives and citizens of Russia, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motions to reconsider. We have jurisdiction under 8 U.S.C. § 1252.

We review for abuse of discretion the BIA’s denial of a motion to reconsider.

* 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).

Cano-Merida v. INS, 311 F.3d 960, 964 (9th Cir. 2002). We grant in part, remand in part, and deny in part the petition for review.

The BIA did not abuse its discretion by denying Vasiliy Yuryevich Salmin's motion to reconsider because the motion failed to point to any error of fact or law in the BIA's prior decision denying his motion to reopen as untimely and for failing to demonstrate the due diligence required for equitable tolling. *See* 8 C.F.R. § 1003.2(b)(1).

The BIA failed to address the contentions raised by Pavel Yuryevich Salmin in his motion to reconsider. We remand for the BIA to consider his contentions in the first instance. *Singh v. Gonzales*, 416 F.3d 1006, 1015 (9th Cir. 2005).

In light of our disposition, we do not reach petitioners' remaining contentions. Each party shall bear its own costs in this petition for review.

**PETITION FOR REVIEW DENIED in part; GRANTED in part;
REMANDED.**