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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICARDO HERRERA-TORRES;
JANETH JAQUELINE HERRERA,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-74394

Agency Nos. A075-712-591
A070-039-485

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.

Ricardo Herrera-Torres, a native and citizen of Mexico, and Janeth Jaqueline Herrera, a native and citizen of El Salvador, petition for review of the Board of Immigration Appeals' order dismissing their appeal from an immigration judge's

* 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).

removal order. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency's factual findings, *Urzua Covarrubias v. Gonzales*, 487 F.3d 742, 747 (9th Cir. 2007), and review de novo questions of law, *Altamirano v. Gonzales*, 427 F.3d 586, 591 (9th Cir. 2005). We deny the petition for review.

Accepting *arguendo* petitioners' testimony as true, substantial evidence nonetheless supports the agency's determination that petitioners knowingly encouraged and assisted another alien to try to enter the United States in violation of law. *See* 8 U.S.C. § 1182(a)(6)(E)(i); *Urzua Covarrubias*, 487 F.3d at 748-49 (substantial evidence supported determination that alien aided and abetted another alien's illegal entry into the United States). Petitioners fail to present any authority suggesting that the affirmative defense of abandonment of an attempt, as employed in criminal law, is applicable to a charge under 8 U.S.C. § 1182(a)(6)(E)(i).

PETITION FOR REVIEW DENIED.