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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIO MAGLAQUE SISON, Jr.;
VIVIAN MONIQUE SISON,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

Nos. 08-70351
08-72336

Agency Nos. A095-198-335
A095-198-336

MEMORANDUM*

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

Submitted May 25, 2010**

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

In these consolidated petitions for review, Mario Maglaque Sison, Jr., and Vivian Monique Sison, natives and citizens of the Philippines, petition for review of the Board of Immigration Appeals' ("BIA") orders denying their motion to reopen and their motion to reconsider. Our jurisdiction is governed by 8 U.S.C.

* 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).

§ 1252. We review for abuse of discretion the denial of a motion to reopen or reconsider. *Salta v. INS*, 314 F.3d 1076, 1078 (9th Cir. 2002). In No. 08-70351, we deny in part and dismiss in part the petition for review. In No. 08-72336, we deny the petition for review.

The BIA did not abuse its discretion by denying petitioners' motion to reopen because the motion was filed more than 19 months after the BIA's October 28, 2005, order dismissing the underlying appeal, and failed to qualify for an exception to the 90-day filing limitation. *See* 8 C.F.R. § 1003.2(c)(2)-(3).

Contrary to petitioners' contention, we lack jurisdiction to review the BIA's decision not to invoke its sua sponte authority to reopen proceedings. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

The BIA did not abuse its discretion by denying petitioners' motion to reconsider because petitioners failed to identify any error of fact or law in the BIA's December 26, 2007, decision concluding that the motion to reopen was untimely and failed to qualify for an exception to the filing deadline. *See* 8 C.F.R. § 1003.2(b)(1).

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

In No. 08-70351: PETITION FOR REVIEW DENIED in part;

DISMISSED in part.

In No. 08-72336: PETITION FOR REVIEW DENIED.