

JUN 02 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VALENTIN CORONA LOPEZ; EMMA
AYDE OBISPO MALDONADO,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-70496

Agency Nos. A095-449-320
A095-449-321

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.

Valentin Corona Lopez and Emma Ayde Obispo Maldonado, natives and

citizens of Mexico, petition pro se for review of the Board of Immigration

Appeals' ("BIA") order denying their motion to reopen removal proceedings to

apply for cancellation of removal and relief under the Convention Against Torture

* 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).

(“CAT”). We have jurisdiction under 8 U.S.C. § 1252. Reviewing for abuse of discretion, *Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002), we deny the petition for review.

The BIA did not abuse its discretion by denying petitioners’ motion to reopen because the successive motion was filed more than 31 months after the BIA’s March 4, 2005, order dismissing the underlying appeal, *see* 8 C.F.R. § 1003.2(c)(2), and the BIA considered the evidence submitted and acted within its broad discretion in determining that petitioners failed to demonstrate prima facie eligibility for relief under the CAT, *see INS v. Abudu*, 485 U.S. 94, 104-05 (1988) (BIA may deny a motion to reopen for failure to establish a prima facie case for the underlying relief sought); *see also Singh*, 295 F.3d at 1039 (BIA’s denial of a motion to reopen shall be reversed only if it is arbitrary, irrational, or contrary to law). Petitioners’ due process claim therefore fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error to prevail on a due process claim).

PETITION FOR REVIEW DENIED.