

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 09 2010

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

ROGELIO RAMIREZ-GARCIA;  
MARGARITA AVALOS-GARCIA,  
  
Petitioners,  
  
v.  
  
ERIC H. HOLDER, Jr., Attorney General,  
  
Respondent.

No. 08-70650

Agency Nos. A095-407-975  
A095-407-976

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.

Rogelio Ramirez-Garcia and Margarita Avalos-Garcia, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen.

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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).

*Toufighi v. Mukasey*, 538 F. 3d 988, 992 (9th Cir. 2008). We deny the petition for review.

The BIA did not abuse its discretion in denying petitioners' motion to reopen as untimely because it was filed approximately one year and nine months after the BIA's final order of removal. *See* 8 U.S.C. § 1229a(c)(7)(C)(i)(motion to reopen must be filed within ninety days of final order of removal).

**PETITION FOR REVIEW DENIED.**