

JUL 12 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DOMINGO MARIO VARGAS and SILVIA SANCHEZ-ALVAREZ,</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. 08-71556

Agency Nos. A070-928-102  
A095-305-120

MEMORANDUM\*

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

Submitted June 29, 2010

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Domingo Mario Vargas and Silvia Sanchez-Alvarez, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to reopen based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the

---

\* 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).

denial of a motion to reopen, and de novo questions of law, including claims of ineffective assistance of counsel. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying the petitioners' motion to reopen because the petitioners failed to present an ineffective assistance of counsel claim against attorneys who represented them before the agency. *See id.* at 793. Further, the petitioners failed to show that they were prejudiced by their former counsel's actions. *See Iturribarria v. INS*, 321 F.3d 889, 899-900 (9th Cir. 2003) (requiring prejudice to prevail in an ineffective assistance of counsel claim).

**PETITION FOR REVIEW DENIED.**