

JUL 29 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>BALBIR SINGH; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p> |
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Nos. 08-71570

Agency Nos. A078-656-944
A078-656-945
A078-656-947
A078-656-948

MEMORANDUM*

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

Submitted July 19, 2010**

Before: B. FLETCHER, REINHARDT and WARDLAW, Circuit Judges.

Balbir Singh and his family, all natives and citizens of India, petition for review of the Board of Immigration Appeals' decision denying their motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of

* 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).

discretion motions to reopen, *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008) and we deny the petition for review.

The BIA did not abuse its discretion in its March 28, 2008, order denying petitioners' motion to reopen as untimely and numerically barred because it was the second motion to reopen, filed nearly three after the BIA's final decision, *see* 8 C.F.R. § 1003.2(c)(2), and the petitioners failed to present sufficient evidence of changed circumstances in India to qualify for the regulatory exception to the time and numerical limitation, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *see also* *Toufighi v. Mukasey*, 538 F.3d 988, 996-97 (9th Cir. 2008) (underlying adverse credibility determination rendered evidence of changed circumstances immaterial).

PETITION FOR REVIEW DENIED.