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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FERNANDO ARREOLA-SOTO and
MARIA DEL CARMEN ARREOLA,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71616

Agency Nos. A095-443-719

A095-443-720

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.

Fernando Arreola-Soto and Maria Del Carmen Arreola, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We

* 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).

review for abuse of discretion the denial of a motion to reopen, *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002), and we deny the petition for review.

The BIA did not abuse its discretion in denying petitioners' motion to reopen because the BIA considered the evidence of Carole's emotional difficulties and acted within its broad discretion in determining that the evidence was insufficient to establish prima facie eligibility for cancellation of removal. *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002) (BIA's denial of a motion to reopen shall be reversed only if it is "arbitrary, irrational, or contrary to law").

The BIA did not abuse its discretion in denying the motion based on evidence of Nicole's hypertrophic tonsil condition because petitioners failed to demonstrate that this evidence was previously unavailable. *See* 8 C.F.R. § 1003.2(c); *Romero-Ruiz v. Mukasey*, 538 F.3d 1057, 1063-64 (9th Cir. 2008).

Petitioners' contentions that the BIA applied an incorrect hardship standard and failed to consider relevant hardship factors are not supported by the record.

PETITION FOR REVIEW DENIED.