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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>NEFTALI ISMAEL SANCHEZ-FLORES; et al.,</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>
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No. 08-73230

Agency Nos. A076-370-739
A076-370-740
A076-370-741
A076-370-742

MEMORANDUM*

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

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Neftali Ismael Sanchez-Flores and family, natives and citizens of Mexico, petition for review of the order of the Board of Immigration Appeals’ (“BIA”) denying their motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen and de novo

* 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).

questions of law. *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 petitioners' motion to reopen as untimely where it was filed almost six years after the BIA's June 17, 2002, order dismissing their underlying appeal, and petitioners failed to demonstrate they qualified for an exception to the time limit or for equitable tolling. *See* 8 C.F.R. § 1003.2(c)(2)-(3); *Iturribarria v. INS*, 321 F.3d 889, 897-98 (9th Cir. 2003). It follows that petitioners' due process claim fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and prejudice for a petitioner to prevail on a due process claim).

Petitioners' remaining contentions are unpersuasive.

PETITION FOR REVIEW DENIED.