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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SANTA BARRERA HERNANDEZ;
OSCAR DANIEL ESTRADA,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-73890

Agency Nos. A095-190-498
A095-790-799

MEMORANDUM*

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

Submitted November 16, 2010**

Before: TASHIMA, BERZON, and CLIFTON, Circuit Judges.

Santa Barrera Hernandez and Oscar Daniel Estrada, pro se natives and citizens of Mexico, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to reopen proceedings due to ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review for

* 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).

abuse of discretion the denial of a motion to reopen, and review de novo questions of law, including claims of due process violations. *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 by denying petitioners' January 28, 2008, motion to reopen for failure to show prejudice. *See Iturribarria v. INS*, 321 F.3d 889, 899-900 (9th Cir. 2003) (prejudice results when the performance of counsel "was so inadequate that it may have affected the outcome of the proceedings") (internal quotation marks and citation omitted).

Petitioners' contention that the BIA failed to consider the evidence they submitted with their motion to reopen is belied by the record.

PETITION FOR REVIEW DENIED.