

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>GABY RUBI MOGUEL-MANZANILLA; JOSE DOLORES HERNANDEZ- CAUICH,</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. 08-72799

Agency Nos. A079-587-513
A079-587-514

MEMORANDUM*

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

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and W. FLETCHER, Circuit Judges.

Gaby Rubi Moguel-Manzanilla and Jose Dolores Hernandez-Cauich, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to reopen. Our jurisdiction is governed by

* 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).

8 U.S.C. § 1252. Reviewing for abuse of discretion, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), we deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying petitioners' motion to reopen because the motion was filed more than three years after the BIA's June 16, 2004, order dismissing their underlying appeal, *see* 8 C.F.R. § 1003.2(c)(2), and they failed to establish grounds for equitable tolling. *See Iturribarria*, 321 F.3d at 897-98. Moreover, petitioners failed to establish prejudice from any alleged attorney error or deception. *Id.* at 902.

To the extent petitioners challenge the BIA's June 16, 2004, order, we lack jurisdiction because this petition is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1); *Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.