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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LETICIA TORRES GARCIA; 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. 08-74940

Agency Nos. A076-456-263
A076-456-264
A076-456-265
A076-456-266

MEMORANDUM*

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

Submitted January 10, 2011**

Before: BEEZER, TALLMAN, and CALLAHAN, Circuit Judges.

Leticia Torres Garcia and her three children, natives and citizens of Mexico, petition for review of the Board of Appeals’ (“BIA”) decision dismissing their appeal from an immigration judge’s (“IJ”) order of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo claims of constitutional

* 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).

violations in immigration proceedings. *See Avila-Sanchez v. Mukasey*, 509 F.3d 1037, 1040 (9th Cir. 2007). We deny in part and dismiss in part the petition for review.

Petitioners' contention that the IJ violated due process by severing their case from that of Jaime Soria Garcia fails because they did not demonstrate prejudice. *See Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (requiring prejudice to prevail on a due process challenge). Similarly, petitioners failed to establish that they were prejudiced by the IJ's issuance of a summary decision. *Id.*

We lack jurisdiction over petitioners' contention that the IJ failed to issue a written memorandum summarizing the oral decision in accordance with 8 C.F.R. § 1003.37 because that contention was not exhausted before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

We also lack jurisdiction to review the agency's decision not to administratively close proceedings. *See Diaz-Covarrubias v. Mukasey*, 551 F.3d 1114, 1118-20 (9th Cir. 2009).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.