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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>MYNOR GUILLERMO ANDRADE-ORTEGA; RONALD MARCELO ANDRADE-ORTEGA,</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. 08-70994

Agency Nos. A073-396-679  
A073-396-680

MEMORANDUM\*

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

Submitted February 15, 2011\*\*

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Mynor Guillermo Andrade-Ortega and Ronald Marcelo Andrade-Ortega, natives and citizens of Guatemala, petition for review of the Board of Immigration Appeals' order dismissing their appeal from an immigration judge's decision

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\* 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).

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, *Garcia v. INS.*, 222 F.3d 1208, 1209 (9th Cir. 2000) (per curiam), and we deny the petition for review.

The agency did not abuse its discretion in denying petitioners' motion to reopen because their former counsel received proper notice of the deportation hearing held on January 9, 1997. *See* 8 C.F.R. § 1003.23(b)(4)(iii)(2), *Garcia*, 222 F.3d at 1209 (notice to an attorney of record constitutes notice to petitioner). To the extent petitioners claim exceptional circumstances, petitioners' motion was untimely filed, and petitioners did not demonstrate they warranted equitable tolling. *See* 8 C.F.R. § 1003.23(b)(4)(iii)(1); *Iturribarria v. INS*, 321 F.3d 889, 897 (9th Cir. 2003) (equitable tolling available "when a petitioner is prevented from filing because of deception, fraud, or error, as long as the petitioner acts with due diligence").

Petitioners' remaining contentions are unavailing.

Petitioners' motion to withdraw as counsel is denied.

**PETITION FOR REVIEW DENIED.**