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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MANJIT KAUR JOSHAN; GURMIT
SINGH JOSHAN, a.k.a. Karmit Singh
Joshnan,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-73109

Agency Nos. A072-176-805
A072-010-100

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.

Manjit Kaur Joshan and Gurmit Singh Joshan, natives and citizens of India, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C.

* 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).

§ 1252. We review for abuse of discretion the denial of a motion to reopen, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we deny the petition for review.

The BIA did not abuse its discretion by denying petitioners' motion to reopen on the ground that they did not establish that their former counsel failed to present arguments that may have affected the outcome of their case. *See id.* at 899-900 (petitioner must show prejudice to prevail on an ineffective assistance claim). Contrary to petitioners' contention, a presumption of prejudice does not apply. *Cf. Singh v. Ashcroft*, 367 F.3d 1182, 1189 (9th Cir. 2004) (applying presumption of prejudice where counsel failed to file any brief on appeal).

PETITION FOR REVIEW DENIED.