

MAR 25 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ELSA ORELLANA-LEON; ANA
ORELLANA,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-70674

Agency Nos. A071-637-879
A071-637-880

MEMORANDUM*

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

Submitted March 8, 2011**

Before: FARRIS, O’SCHANLAIN, and BYBEE, Circuit Judges.

Elsa Orellana-Leon and Ana Orellano, natives and citizens of Guatemala, petition for review of the Board of Immigration Appeals’ (“BIA”) order dismissing their appeal from an immigration judge’s (“IJ”) decision denying their motion to reopen proceedings held in absentia. We have jurisdiction under 8 U.S.C. § 1252.

* 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).

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

The BIA did not abuse its discretion by denying petitioners' request for reopening sua sponte rather than remanding for the IJ to first address their request. *See* 8 C.F.R. § 1003.1(d)(3)(ii) ("The Board may review questions of law, discretion, and judgment and all other issues in appeals from decisions of immigration judges de novo."); *see also Ghaly v. INS*, 58 F.3d 1425, 1430 (9th Cir. 1995) ("Any error committed by the IJ will be rendered harmless by the Board's application of the correct legal standard.").

PETITION FOR REVIEW DENIED.