

MAR 28 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JORGE CORTES MACEDO; YESENIA
OROZCO DE LA PAZ,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-70838

Agency Nos. A096-064-388

A096-064-389

MEMORANDUM*

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

Submitted March 8, 2011**

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

Jorge Cortes Macedo and Yesenia Orozco De La Paz, natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen.

* 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).

Mohammed v. Gonzales, 400 F.3d 785, 791-92 (9th Cir. 2005). 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 as untimely where the motion was filed more than a year after the final administrative order was entered in their case. *See* 8 C.F.R. § 1003.2(c)(2). We lack jurisdiction to review the BIA's decision not to invoke its sua sponte authority to reopen proceedings under 8 C.F.R. § 1003.2(a). *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002). If we had jurisdiction to review the BIA's decision, we would find no abuse of discretion.

The BIA did not abuse its discretion in denying petitioners' request to withdraw from their grant of voluntary departure on grounds that petitioners failed to demonstrate that they filed their motion prior to the expiration of their voluntary departure period. *See Dada v. Mukasey*, 554 U.S. 1, 21 (2008) (alien must be permitted to withdraw a voluntary departure request before expiration of the departure period).

Petitioners' remaining contentions are unavailing.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.