

APR 12 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KEITI SALIM KAYYAL; OUSAMEH  
SALIM KAYYAL,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-75068

Agency Nos. A070-546-366

A070-546-367

MEMORANDUM\*

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

Submitted April 5, 2011\*\*

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Keiti Salim Kayyal and Ousameh Salim Kayyal, citizens of Jordan, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to

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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).

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 in denying the Kayyals' motion to reopen as untimely because it was filed more than eight years after the BIA's final order of removal, *see* 8 U.S.C. § 1229a(c)(7)(C)(i), and the Kayyals did not establish the due diligence required for equitable tolling, *see Iturribarria*, 321 F.3d at 897 (deadline for filing motion to reopen can be equitably tolled "when a petitioner is prevented from filing because of deception, fraud, or error, as long as the petitioner acts with due diligence in discovering the deception, fraud, or error").

**PETITION FOR REVIEW DENIED.**