

APR 14 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE ANTONIO PEREZ HIGUERA;
EDELMIRA OROZCO OCHOA,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71209

Agency Nos. A096-051-790

A096-051-791

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.

Jose Antonio Perez Higuera and Edelmira Orozco Ochoa, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' order dismissing their appeal from an immigration judge's decision denying their motion to reopen, after an in absentia determination of removal. We review for abuse of

* 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).

discretion the denial of a motion to reopen, *Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002), and we deny the petition for review.

The agency did not abuse its discretion in denying petitioners' motion to reopen on the grounds that their mistaken understanding that their hearing was on a different date did not constitute exceptional circumstances within the meaning of 8 U.S.C. § 1229a(e)(1), and denial of the motion did not lead to an unconscionable result. *See Valencia-Fragoso v. INS*, 321 F.3d 1204, 1205-06 (9th Cir. 2003) (*per curiam*).

PETITION FOR REVIEW DENIED.