

APR 27 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA ELENA SANDOVAL SOTO;
YANETH SOTO MARLIN,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71959

Agency Nos. A027-618-581
A027-618-582

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.

Maria Elena Sandoval Soto and Yaneth Soto Marlin, natives and citizens of El Salvador, petition pro se for review of the Board of Immigration Appeals’ (“BIA”) order dismissing their appeal from an immigration judge’s decision denying their motion to reopen. Our jurisdiction is governed by 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, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), we deny in part and dismiss in part the petition for review.

The agency did not abuse its discretion in denying petitioners' motion to reopen because the motion was filed nearly ten years after the September 11, 1998, filing deadline for motions to reopen seeking relief under the Nicaraguan Adjustment and Central American Relief Act, *see* 8 C.F.R. § 1003.43(e)(1), and petitioners failed to establish grounds for equitable tolling, *see Albillo-De Leon v. Gonzales*, 410 F.3d 1090, 1098-1100 (9th Cir. 2005) (equitable tolling available where petitioner is unable to obtain vital information bearing on the existence of a claim "despite all due diligence").

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 Mejia-Hernandez v. Holder*, No. 07-74277, 2011 WL 240357, at *4 (9th Cir. Jan. 27, 2011).

Petitioners' remaining contentions are unavailing.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.