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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FREDY ALEJANDRO HIDALGO-
SANTACRUZ and ELENA MAGO
HIDALGO,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-72084

Agency Nos. A096-066-964
A096-066-965

MEMORANDUM*

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

April 20, 2011**

Before: RYMER, THOMAS, and PAEZ, Circuit Judges.

Fredy Alejandro Hidalgo-Santacruz and Elena Mago Hidalgo, natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals' order dismissing their appeal from an immigration judge's decision

* 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).

denying their motion to reopen removal proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We deny the petition for review.

The agency did not abuse its discretion in denying petitioners' motion to reopen because the motion was filed more than five years after the January 15, 2003, removal order, *see* 8 C.F.R. § 1003.23(b)(4)(i)(A)(1), and petitioners failed to establish that they acted with the due diligence required for equitable tolling, *see Iturribarria v. INS*, 321 F.3d 889, 897 (9th Cir. 2003), or fell within the exceptions to the filing deadline, *see* 8 C.F.R. § 1003.23(b)(4)(iii)(A)(2); 8 U.S.C. § 1229(a); *Flores-Chavez v. Aschcroft*, 362 F.3d 1150, 1156 n.4 (9th Cir. 2004) ("Current law does not require that the Notice of Appeal. . . be in any language other than English.").

PETITION FOR REVIEW DENIED.