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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAVINDRA PRAKASH SHARMA;
RALESH PRAKASH CHAUBE,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-71924

Agency Nos. A078-643-113
A078-643-372

MEMORANDUM*

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

Submitted April 20, 2011**

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

Ravindra Prakash Sharma and Ralesh Prakash Chaube, natives and citizens of Fiji, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to reopen. We have jurisdiction under 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 the denial of a motion to reopen, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), we deny the petition for review.

The BIA did not abuse its discretion in denying petitioners' motion to reopen as untimely because the motion was filed more than 2 years after the BIA's November 12, 2004, order dismissing the underlying appeal, *see* 8 C.F.R. § 1003.2(c)(2) (motion to reopen generally must be filed within 90 days of the final order), and petitioners failed to establish that they acted with the due diligence required for equitable tolling of that deadline, *see Iturribarria*, 321 F.3d at 897.

In light of our disposition, we do not address petitioners' contentions regarding the merits of their ineffective assistance of counsel claim.

PETITION FOR REVIEW DENIED.