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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DARIO ICO SAN AGUSTIN; LUCILA
CALALANG SAN AGUSTIN,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-72910

Agency Nos. A070-804-772
A070-804-773

MEMORANDUM*

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

Submitted June 15, 2011**

Before: CANBY, O’SCANNLAIN, and FISHER, Circuit Judges.

Dario Ico San Agustin and Lucila Calalang San Agustin, natives and citizens of the Philippines, 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. We review for abuse of discretion the denial of a motion to reopen,

* 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).

Singh v. Gonzales, 491 F.3d 1090, 1095 (9th Cir. 2007), and we deny the petition for review.

In their opening brief, petitioners fail to address, and therefore have waived any challenge to, the BIA's dispositive determination that they failed to demonstrate due diligence warranting equitable tolling of their untimely motion to reopen. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not specifically raised and argued in a party's opening brief are waived).

In light of this disposition, we need not reach petitioners' remaining contentions.

PETITION FOR REVIEW DENIED.