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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RAJESH DUTT and LATA RASHMIN DUTT,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 10-70113

Agency Nos. A073-970-518
A073-970-519

MEMORANDUM*

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

Submitted July 12, 2011**

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

Rajesh Dutt and Lata Rashmin Dutt, natives and citizens of Fiji, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen and de novo claims

* 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).

of constitutional violations in immigration proceedings. *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 where it was filed more than 90 days after the BIA's final order of removal, *see* 8 U.S.C. § 1229a(c)(7)(C)(i), and petitioners failed to demonstrate changed country conditions to qualify for the regulatory exception to the time limit for filing motions to reopen, *see* 8 U.S.C. § 1229a(c)(7)(C)(ii); *cf. Maly v. Ashcroft*, 381 F.3d 942, 945 (9th Cir. 2004). Therefore, petitioners' due process rights were not violated. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for a due process violation).

We do not consider the extra-record evidence submitted for the first time with petitioners' opening brief because the court's review is limited to the administrative record. *See* 8 U.S.C. § 1252(b)(4)(A).

Petitioners' remaining contentions are unavailing.

PETITION FOR REVIEW DENIED.

