

AUG 9 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SANTIAGO NUNEZ; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 10-70937

Agency Nos. A070-918-878  
A070-918-879  
A070-918-880  
A070-918-881  
A070-918-882  
A070-918-883

MEMORANDUM\*

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

Submitted August 2, 2011 \*\*

Before: RYMER, IKUTA, and N.R. SMITH, Circuit Judges.

Santiago Nunez, Rosa Hernandez, Adriana Nunez, Santiago Nunez, Fabian Nunez, and Jorge Nunez, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' order dismissing their appeal from an immigration

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\* 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).

judge's denial of their motion to reopen deportation 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 proceedings conducted in absentia, *Garcia v. INS*, 222 F.3d 1208, 1209 (9th Cir. 2000), and we deny the petition for review.

The agency did not abuse its discretion in denying petitioners' motion to reopen because it was filed more than ten years after their final order of deportation, *see* 8 C.F.R. § 1003.23(b)(4)(iii)(A)(1), and petitioners did not establish that they acted with the due diligence required for equitable tolling, *see Socop-Gonzalez v. INS*, 272 F.3d 1176, 1193 (9th Cir. 2001) (en banc) (equitable tolling available where, despite due diligence, petitioner is unable to obtain vital information bearing on the existence of a claim because of circumstances beyond petitioner's control).

We deny the government's motion to stay proceedings.

**PETITION FOR REVIEW DENIED.**