

DEC 14 2011

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U.S. COURT OF APPEALS

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

CRISPIN ROJAS and MA DE LOURDES  
ROJAS,

Petitioners,

v.

ERIC H. HOLDER JR., Attorney General,

Respondent.

No. 06-75168

Agency Nos. A095-576-451  
A095-576-452

MEMORANDUM\*  
and ORDER

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

Argued and Submitted October 25, 2011  
San Francisco, California

Before: **GRABER** and **IKUTA**, Circuit Judges, and **QUIST**, Senior District  
Judge.\*\*

Crispin Rojas and Ma De Lourdes Rojas, natives and citizens of Mexico,  
petition for review of an order of the Board of Immigration Appeals (“BIA”) denying

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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 Honorable Gordon J. Quist, Senior United States District Judge  
for the Western District of Michigan, sitting by designation.

their motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review the denial of a motion to reopen for an abuse of discretion. *Celis-Castellano v. Ashcroft*, 298 F.3d 888, 890 (9th Cir. 2002). Questions of law are reviewed de novo. *Granados-Oseguera v. Mukasey*, 546 F.3d 1011, 1014 (9th Cir. 2008) (per curiam).

The BIA did not abuse its discretion in denying the motion to reopen. Even with the benefit of the 60-day departure period, Petitioners were statutorily ineligible for relief because they failed to depart the United States before their voluntary departure period expired. 8 U.S.C. § 1229c(d)(1); *see Granados-Oseguera*, 546 F.3d at 1016 (holding that the statutory bar on relief precluded the petitioner from relying on ineffective assistance of counsel as an “exceptional circumstance” excusing a failure to depart within the required time).

Petitioners’ prior petition cannot be considered a request for a stay. *See Garcia v. Ashcroft*, 368 F.3d 1157, 1159 (9th Cir. 2004) (order) (“Unlike a motion for stay of removal, a petition for review is not similar to a motion for stay of voluntary departure, nor are the standards governing the two requests for relief.”). While we must afford pro se alien submissions a liberal construction, *Sembling v. Gonzales*, 499 F.3d 981, 990 (9th Cir. 2007), a petitioner must give us something to liberally construe in the first instance. Petitioners failed to do so. Moreover, there is no automatic stay of voluntary departure while an alien pursues a petition for review

before this court. *Desta v. Ashcroft*, 365 F.3d 741, 746 (9th Cir. 2004) (citing *Zazueta-Carrillo v. Ashcroft*, 322 F.3d 1166, 1172 (9th Cir. 2003)).

**PETITION FOR REVIEW DENIED.<sup>1</sup>**

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<sup>1</sup> Petitioners' motion for judicial notice is granted.