

MAY 25 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RAFAEL ARMANDO IBARRA PEREZ; et al.,</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. 09-73064

Agency Nos. A096-346-322
A096-346-323
A096-346-324

MEMORANDUM*

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

Submitted May 15, 2012**

Before: CANBY, GRABER, and M. SMITH, Circuit Judges.

Rafael Armando Ibarra Perez, Leticia Ibarra, and their son, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals’

* 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).

(“BIA”) order denying their motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We grant the petition for review and remand.

The BIA rejected petitioners’ motion to reopen without the benefit of our decision in *Reyes-Torres v. Holder*, 645 F.3d 1073, 1077 (9th Cir. 2011), in which we concluded that 8 C.F.R. § 1003.2(d) did not preclude a motion to reopen filed after a petitioner had been removed. We remand to the BIA in light of this intervening case law.

Because of our remand, we do not address petitioners’ remaining contentions.

PETITION FOR REVIEW GRANTED; REMANDED.