

AUG 15 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DILIPKUMAR NAGINBHAI PATEL,
a.k.a. Dilpkumar Nojinby Patel;
JAYABEN RATILAL PATEL, a.k.a.
Jiabin Rakilal Patel,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-70375

Agency Nos. A070-805-804
A070-805-805

MEMORANDUM*

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

Submitted August 8, 2012**

Before: ALARCÓN, BERZON, and IKUTA, Circuit Judges.

Dilipkumar Naginbhai Patel and Jayaben Ratilal Patel, natives and citizens
of India, petition for review of the Board of Immigration Appeals’ (“BIA”) order

* 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).

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, and review de novo due process claims. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying petitioners' motion to reopen where they did not establish that former counsel's failure to submit evidence of lead petitioner's political activities would have affected the outcome their proceedings. *See id.* at 793-94 (prejudice results when performance of counsel was so inadequate that it may have affected the outcome of the proceedings).

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

PETITION FOR REVIEW DENIED.