

SEP 14 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TUYEN HONG NGUYEN a.k.a. Nguyen
Tuyen Hong; et al.,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-71270

Agency Nos. A077-427-195

A077-427-196

A077-427-197

MEMORANDUM*

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

Submitted September 10, 2012**

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Tuyen Hong Nguyen and his wife and son, all citizens of Vietnam, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motions to reopen removal proceedings. We have jurisdiction under 8 U.S.C.

* 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).

§ 1252. We review for an abuse of discretion the BIA’s denial of a motion to reopen. *Toufighi v. Mukasey*, 538 F.3d 988, 992 (9th Cir. 2008). We deny the petition for review.

The BIA did not abuse its discretion in denying petitioners’ motion to reopen as untimely where the motion was filed over three years after the BIA’s final order, *see* 8 C.F.R. § 1003.2(c)(2), and petitioners failed to present sufficient evidence of changed circumstances in Vietnam to qualify for the regulatory exception to the time limit for filing motions to reopen, *see* 8 C.F.R.

§ 1003.2(c)(3)(ii); *Malty v. Ashcroft*, 381 F.3d 942, 945 (9th Cir. 2004) (“The critical question is . . . whether circumstances have changed sufficiently that a petitioner who previously did not have a legitimate claim for asylum now has a well-founded fear of future persecution.”).

Petitioners do not challenge the BIA’s denial of Tuan Anh Nguyen’s separate motion to reopen.

PETITION FOR REVIEW DENIED.