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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>PAVEL SHVETSOV; JULIA SOSNOVSKAYA,</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. 11-70541

Agency Nos. A098-829-563
A098-829-564

MEMORANDUM*

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

Submitted January 15, 2013**

Before: SILVERMAN, BEA, and NGUYEN, Circuit Judges.

Pavel Shvetsov and Julia Sosnovskaya, natives and citizens of Russia, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion 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 abuse of discretion the denial of a motion to reopen and review de novo claims of due process violations. *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002). 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 Russia 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); *Toufighi v. Mukasey*, 538 F.3d 988, 996 (9th Cir. 2008) (requiring movant to produce material evidence with motion to reopen that conditions in country of nationality had changed).

We reject petitioners' contention that the BIA violated their due process rights by failing to provide a reasoned basis for its conclusions. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and prejudice for a due process violation). Further, we decline to consider any challenge to the agency's adverse credibility finding because this court already decided the issue in *Shvetsov v. Holder*, 324 Fed. Appx. 678 (9th Cir. 2009).

PETITION FOR REVIEW DENIED.