

MAY 22 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA SOCORRO GALLEGOS  
MATIAS; JOSE JIMENEZ MENDOZA,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-70182

Agency Nos.       A079-586-738  
                              A079-586-739

MEMORANDUM\*

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

Submitted May 14, 2013\*\*

Before:       LEAVY, THOMAS, and MURGUIA, Circuit Judges.

Maria Socorro Gallegos Matias and Jose Jimenez Mendoza, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to reopen removal proceedings based on

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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 panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

ineffective assistance of counsel. 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 claims of due process violations. *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 failed to establish prejudice arising from any alleged ineffective assistance by their former counsel. *See id.* at 793-94 (“[P]rejudice results when the performance of counsel was so inadequate that it *may* have affected the outcome of the proceedings.” (emphasis in original) (internal quotation marks omitted)).

Petitioners' contention that the BIA employed an incorrect standard of review is belied by the record.

In light of our disposition, we need not address petitioners' contention regarding their failure to depart within the voluntary departure period.

**PETITION FOR REVIEW DENIED.**