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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SARAS WATI CHAND; GANESHWAR CHAND,</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>

No. 10-71725

Agency Nos. A075-020-382
A075-020-381

MEMORANDUM*

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

Submitted June 10, 2013**

Before: HAWKINS, McKEOWN, and BERZON, Circuit Judges.

Saras Wati Chand and Ganeshwar Chand, natives and citizens of Fiji, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the BIA’s denial of a motion

* 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).

to reopen. *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying the Chands' untimely motion to reopen where the motion was filed almost four years after the BIA's final decision, *see* 8 C.F.R. § 1003.2(c)(2), and the Chands failed to establish changed circumstances in Fiji material to their claim, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *Najmabadi*, 597 F.3d at 987 (to be "material," the new evidence "must be 'qualitatively different' from the evidence produced at the previous hearing") (internal citation omitted).

We lack jurisdiction over the Chands' claim that the BIA erred by not granting them withholding of removal and relief under the Convention Against Torture, or by failing to conduct a disfavored group analysis, because they did not sufficiently argue these contentions in their motion to reopen. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part, DISMISSED in part.