

JUN 13 2013

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RUBEN OSCAR RIVERA; SONIA RIVERA,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-70161

Agency Nos. A099-417-832
A099-417-833

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.

Ruben Oscar Rivera and Sonia Rivera, 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 ineffective assistance of

* 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).

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 questions of law. *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)); *see also Lara-Torres v. Ashcroft*, 383 F.3d 968, 973-74 (9th Cir. 2004), *amended by* 404 F.3d 1105 (9th Cir. 2005) (order).

PETITION FOR REVIEW DENIED.