

NOV 26 2013

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RENU MADHAR; SANTOKH MADHAR,</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. 11-73292

Agency Nos. A072-683-740
 A072-683-739

MEMORANDUM*

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

Submitted November 19, 2013**

Before: CANBY, TROTT, and THOMAS, Circuit Judges.

Renu Madhar and Santokh Madhar, natives and citizens of India, 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. § 1252. We

* 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).

review for abuse of discretion the BIA's denial of a motion to reopen. *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010). We deny the petition for review.

The BIA did not abuse its discretion by denying petitioners' second motion to reopen as untimely and number-barred where the motion was filed more than six years after the BIA's final order, *see* 8 C.F.R. § 1003.2(c)(2), and petitioners failed to present sufficient evidence of materially changed conditions in India to qualify for the regulatory exception to the time and numerical limit for filing motions to reopen, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *Najmabadi*, 597 F.3d at 987 (evidence must be "qualitatively different" from the evidence presented at the previous hearing); *see also Toufighi v. Mukasey*, 538 F.3d 988, 995-97 (9th Cir. 2008) (requiring movant to establish prima facie eligibility for relief and discussing consequences of lack of credibility).

We reject petitioners' contention that the BIA failed to consider the evidence presented with the motion to reopen. *See Najmabadi*, 597 F.3d at 990-91.

We do not review any challenge the Madhars make to the agency's underlying credibility determination because this court already decided the issue in *Madhar v. Gonzales*, No. 05-75090, 2007 WL 582862 (9th Cir. Feb. 23, 2007).

PETITION FOR REVIEW DENIED.