

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 23 2019

FOR THE NINTH CIRCUIT

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

FELIPE DE JESUS LOPEZ-GOMEZ and
MARIA VENEGAS-GUERRA,

Petitioners,

v.

MATTHEW G. WHITAKER, Acting
Attorney General,

Respondent.

No. 18-70246

Agency Nos. A075-261-306
A075-261-307

MEMORANDUM*

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

Submitted January 15, 2019**

Before: TROTT, TALLMAN, and CALLAHAN, Circuit Judges.

Felipe De Jesus Lopez-Gomez and Maria Venegas-Guerra, natives and citizens of Mexico, 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 review for abuse of discretion the denial of

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

a motion to reopen and we review de novo questions of law. *Singh v. Ashcroft*, 367 F.3d 1182, 1185 (9th Cir. 2004). We deny the petition for review.

Petitioners do not challenge the denial of their motion to reopen based on ineffective assistance of counsel. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not specifically raised and argued in a party's opening brief are waived).

The BIA did not abuse its discretion in denying petitioners' untimely motion to reopen, where petitioners failed to demonstrate prima facie eligibility for relief to qualify for an exception to the time limitation for motions to reopen. *See* 8 C.F.R. § 1003.2(c)(3)(ii); *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010) (the BIA can deny a motion to reopen for failure to establish prima facie eligibility for the relief sought).

We reject petitioners' contentions that the BIA applied the wrong standard and did not properly consider all of the evidence.

PETITION FOR REVIEW DENIED.