

SEP 29 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LUIS MANUEL OCHOA-CONTRERAS
and MARISOL OCHOA,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-75014

Agency Nos. A096-071-364

A096-071-363

MEMORANDUM*

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

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Luis Manuel Ochoa-Contreras and Marisol Ochoa, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Cano-Merida*

* 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).

v. INS, 311 F.3d 960, 964 (9th Cir. 2002), and de novo claims of due process violations, *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001). We deny the petition for review.

The BIA did not abuse its discretion in denying petitioners' motion to reopen because the BIA considered the evidence of petitioners' U.S. citizen son and daughter's medical conditions and acted within its broad discretion in determining that the evidence was insufficient to establish prima facie eligibility for cancellation of removal. *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002) (BIA's denial of a motion to reopen shall be reversed only if it is "arbitrary, irrational, or contrary to law"). Petitioners' contention that the BIA failed to consider the cumulative impact of their hardship evidence fails because it is not supported by the record.

PETITION FOR REVIEW DENIED.