

MAR 29 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JULIO DIAZ-LEIVA; MARIA TERESA
RAYON-SANCHEZ,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71303

Agency Nos. A070-944-576
A072-404-348

MEMORANDUM*

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

Submitted March 8, 2011**

Before: FARRIS, O’SCANNLAIN, and BYBEE, Circuit Judges.

Julio Diaz-Leiva, a native and citizen of El Salvador, and Maria Teresa Rayon-Sanchez, a native and citizen of Mexico, petition for review of the Board of Immigration Appeals’ (“BIA”) order summarily dismissing their appeal from an immigration judge’s removal order. We have jurisdiction under 8 U.S.C. § 1252.

* 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).

We review for abuse of discretion the BIA's decision to summarily dismiss an appeal, and review de novo claims of due process violations. *Singh v. Gonzales*, 416 F.3d 1006, 1009 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion or violate due process by summarily dismissing petitioners' appeal where petitioners have conceded that they failed to specify the reasons for their appeal on the Notice of Appeal, and failed to file a promised written brief or to explain their failure to do so. *See* 8 C.F.R. §§ 1003.1(d)(2)(i)(A), (E); *Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (showing of error required to prevail on a due process claim).

Petitioners' request for judicial notice of evidence later submitted in connection with their motion for reconsideration is denied. *See Fisher v. INS*, 79 F.3d 955, 963 (9th Cir. 1996).

Petitioners' request to hold this case in abeyance is denied.

PETITION FOR REVIEW DENIED.