

APR 15 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HUMBERTO ALVEAR GARCIA; et al.,</p> <p>Petitioners,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 09-73688

Agency Nos. A096-067-348
A096-067-349
A096-067-350

MEMORANDUM*

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

April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Humberto Alvear Garcia, Maria Del Rosario Hernandez Leana, andELIT Edain Alvear Hernandez, petition for review of the Board of Immigration Appeals’ (“BIA”) order denying their motion to reconsider its order denying their motion to reopen based on ineffective assistance of counsel. We have jurisdiction under

* 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).

8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reconsider, *Morales Apolinar v. Mukasey*, 514 F.3d 893, 895 (9th Cir. 2008), and we deny the petition for review.

The BIA did not abuse its discretion in denying petitioners' motion to reconsider because the motion failed to identify any error of fact or law in the BIA's prior decision denying reopening. *See* 8 C.F.R. § 1003.2(b)(1); *see also* *Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 826 (9th Cir. 2003) (petitioner was not prejudiced by his counsel's failure to file a brief with the BIA where there were no plausible grounds for relief at the time of his appeal to the BIA).

PETITION FOR REVIEW DENIED.