

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

December 19, 2007

Charles R. Fulbruge III
Clerk

No. 06-61175

Summary Calendar

BOLIVAR ROMERO; ARCEDALIA ROMERO

Petitioners

v.

MICHAEL B. MUKASEY, UNITED STATES ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A98 548 931
BIA No. A98 548 932

Before JOLLY, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Mexican citizens Arcadalia Romero and Bolivar Romero petition for review from the decision of the Board of Immigration Appeals ("BIA") denying their motion to reopen their case based on alleged ineffective assistance of counsel. The Romeros did not petition for review from the BIA's original decision denying their application for cancellation of removal based on alleged hardship to their children, who are United States citizens, were they to be removed to Mexico.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

However, the BIA reissued that decision for the limited purpose of allowing the Romeros to comply with the requirements for voluntary departure.

We do not decide whether the BIA's reissuance of its original decision restarted the time during which the Romeros could file a petition for review. See, e.g., *Lewis v. Gonzales*, 481 F.3d 125, 129 (2d Cir. 2007); *Firmansjah v. Ashcroft*, 347 F.3d 625, 626-27 (7th Cir. 2003). That question need not be answered because even if the appeal is timely, we lack jurisdiction to review the discretionary determination whether an alien who is legally eligible for cancellation of removal should be granted that relief. 8 U.S.C. § 1252(a)(2); *Delgado-Reynua v. Gonzales*, 450 F.3d 596, 599-600 (5th Cir. 2006). The failure to receive discretionary relief does not amount to a deprivation of a liberty interest, and alleged ineffective assistance of counsel in seeking such relief does not constitute a due process violation. *Assaad v. Ashcroft*, 378 F.3d 471, 475 (5th Cir. 2004).

In light of the foregoing, the petition for review is DISMISSED.