

APR 22 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE MANUEL RODRIGUEZ VICTOR;
AIDE OSEGUEDA GUTIERREZ,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-73520

Agency Nos. A096-052-378
A077-600-002

MEMORANDUM*

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

Submitted April 16, 2013**

Before: CANBY, IKUTA, and WATFORD, Circuit Judges.

Jose Manuel Rodriguez Victor and Aide Osegueda Gutierrez, natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reconsider the BIA's prior order dismissing their appeal from an immigration judge's ("IJ") decision denying their

* 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).

applications for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reconsider. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We review de novo claims of constitutional violations in immigration proceedings. *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). We deny the petition for review.

The BIA was within 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 affirming the IJ's denial of cancellation of removal. *See* 8 U.S.C. § 1229a(c)(6)(C); *see also Romero-Torres v. Ashcroft*, 327 F.3d 887, 889 (9th Cir. 2003) (“[c]ancellation of removal ... is based on statutory predicates that must first be met”).

We reject petitioners' contention that their equal protection and due process rights were violated because they should have been allowed to apply for suspension of deportation. *See Ram*, 243 F.3d at 517 (“Line-drawing decisions made by Congress or the President in the context of immigration must be upheld if they are rationally related to a legitimate government purpose.”); *Ramirez-Zavala v. Ashcroft*, 336 F.3d 872, 874-75 (9th Cir. 2003) (finding petitioner ineligible to apply for suspension of deportation where removal proceedings commenced after April 1, 1997).

PETITION FOR REVIEW DENIED.