

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 03 2008

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

SIMON ANTONIO OLIVARES; MARIA
ELEUTERIA OLIVARES,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-74067

Agency Nos. A95-186-591
A95-186-592

MEMORANDUM*

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

Submitted June 18, 2008**

Before: REINHARDT, LEAVY, and CLIFTON, Circuit Judges

Simon Antonio Olivares and Maria Eleuteria Olivares, natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals' denial of Simon Olivares's motion to reopen removal proceedings. The Board denied the

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

motion as numerically barred under 8 U.S.C. § 1003.2(c)(2). Our jurisdiction is governed by 8 U.S.C. § 1252. We deny the petition for review.

The petitioners do not challenge the Board's ruling that their motion to reopen was numerically barred. Rather, they contend that they should be granted cancellation of removal. They also imply that Simon Olivares is eligible for adjustment of status to lawful permanent resident under 8 U.S.C. § 1255.

The petitioners have waived any challenge to the Board's dispositive ruling that their motion to reopen was numerically barred by failing to address that ruling in their opening brief. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996). We lack jurisdiction to consider issues not raised in the petitioners' motion to reopen and thus not exhausted before the Board. *See Barron v. Ashcroft*, 358 F.3d 674, 677 (9th Cir. 2004) .

PETITION FOR REVIEW DENIED.