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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

AUDENCIO FRANCO; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

Nos. 04-73022
05-73392

Agency Nos. A96-143-947
A96-143-948

MEMORANDUM *

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

Submitted November 13, 2007 **

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

In these consolidated petitions, Audencio Franco and his wife, Maria Elena Franco, natives and citizens of Mexico, petition for review of the Board of

* 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).

Immigration Appeals' ("BIA") order affirming an Immigration Judge's order denying their applications for cancellation of removal, and the BIA's order denying their motion to reopen. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *See Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We review de novo claims of constitutional violations in immigration proceedings. *See Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). We deny the petitions for review.

In No. 04-73022, petitioners contend the BIA violated due process by refusing to accept their late-filed brief. Contrary to petitioners' contention, they were not "prevented from reasonably presenting their case," where the bases for their appeal were set forth in their Notice of Appeal. *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (citation omitted).

In No. 05-73392, the BIA did not abuse its discretion in denying petitioners' motion to reopen based on ineffective assistance of counsel because petitioners did not demonstrate prejudice. *See Iturribarria*, 321 F.3d at 899-900.

PETITIONS FOR REVIEW DENIED.