

APR 30 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BERNARDO DURANGO ALVAREZ;
RAFAELA LUNA MENDOZA,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-72848

Agency Nos. A75-500-172
A75-500-173

MEMORANDUM*

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

Submitted April 22, 2008**

Before: GRABER, FISHER, and BERZON, Circuit Judges.

Bernardo Durango Alvarez and Rafaela Luna Mendoza, married natives and
citizens of Mexico, petition for review of the Board of Immigration Appeals'

* 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).

(“BIA”) order denying their motion to reopen based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review de novo claims of due process violations in removal proceedings, including claims of ineffective assistance of counsel, *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005), and we deny the petition for review.

We agree with the BIA’s conclusion that former counsel’s performance did not result in prejudice to petitioners, and thus their claim of ineffective assistance of counsel fails. *See Iturribarria v. INS*, 321 F.3d 889, 899-900 (9th Cir. 2003) (to prevail on an ineffective assistance of counsel claim, a petitioner must demonstrate that counsel’s conduct was so inadequate that it may have affected the outcome of the proceedings).

PETITION FOR REVIEW DENIED.