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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE JUAN MONTES PEREZ; SYLVIA
MORALES,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-73617

Agency Nos. A78-368-870
A78-368-871

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.

Jose Juan Montes Perez and Silvia Morales, husband and wife and 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).

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(“BIA”) order dismissing their appeal from an immigration judge’s decision denying their applications for asylum, withholding of removal, protection under the Convention Against Torture (“CAT”), and cancellation of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We deny in part and dismiss in part the petition for review.

The record does not compel the conclusion that petitioners’ demonstrated exceptional circumstances to excuse the untimely filing of their asylum application. *See* 8 U.S.C. § 1158(a)(2)(D); 8 C.F.R. § 1208.4(a)(5).

Substantial evidence supports the BIA’s denial of withholding of removal because petitioners did not meet their burden to establish past persecution or a well-founded fear of persecution if returned to Mexico. *See Lim v. INS*, 224 F.3d 929, 938-39 (9th Cir. 2000).

Substantial evidence supports the BIA’s denial of CAT protection because petitioners did not establish that is more likely than not that they would be tortured if returned to Mexico. *See Hasan v. Ashcroft*, 380 F.3d 1114, 1122-23 (9th Cir. 2004).

Under 8 U.S.C. § 1252(a)(2)(B)(i), we lack jurisdiction to review the agency’s “exceptional and extremely unusual hardship” determination. *Martinez-*

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Rosas v. Gonzales, 424 F.3d 926, 929-30 (9th Cir. 2005).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.