

DEC 26 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>GRATCH KHATACHATRIAN; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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Nos. 05-74304  
06-73094

Agency Nos. A079-258-046  
A079-258-047  
A079-258-049  
A079-258-050

MEMORANDUM\*

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

Submitted December 17, 2008\*\*

Before: GOODWIN, WALLACE and TROTT, Circuit Judges.

Gratch Khatachatrian, his wife and two children, all natives and citizens of  
Armenia, petition for review of two orders of the Board of Immigration Appeals

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\* 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"). In petition No. 05-74304, they seek review of an order by the BIA dismissing their appeal from an immigration judge's ("IJ") decision denying their applications for asylum, withholding of removal, and relief under the Convention Against Torture. In petition No. 06-73094, they petition for review of the BIA's denial of a motion to reopen based on ineffective assistance of counsel. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Ordonez v. INS*, 345 F.3d 777, 782 (9th Cir. 2003), and we deny both petitions.

In their opening brief the Khatachatrians do not challenge the agency's determination that they failed to establish eligibility for the underlying relief sought. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (holding issues which are not specifically raised and argued in a party's opening brief are waived). Similarly, we do not consider petitioners' due process contentions raised for the first time in their reply brief. *See id.* Accordingly, we deny petition No. 05-74304.

In petition No. 06-73094, the BIA did not abuse its discretion in denying the Khatachatrians' motion to reopen as untimely, because it was filed almost six months beyond the deadline for such motions, *see* 8 C.F.R. § 1003.2(c)(2), and

because the Khatachatrians did not demonstrate that they were entitled to equitable tolling, *see Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003).

**PETITIONS FOR REVIEW DENIED.**