

JAN 20 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VONNY DEANNE SILVANA; JOJO  
FRANCO SETLIGHT,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 05-74347

Agency Nos. A079-194-199  
A079-194-180

MEMORANDUM\*

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

Submitted January 13, 2009\*\*

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Vonny Deanne Silvana and Jojo Franco Setlight, husband and wife and  
natives and citizens of Indonesia, petition for review of the Board of Immigration

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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).

Appeals' ("BIA") order denying their motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Malty v. Ashcroft*, 381 F.3d 942, 945 (9th Cir. 2004), and review de novo due process claims, *Vasquez-Zavala v. Ashcroft*, 324 F.3d 1105, 1107 (9th Cir. 2003). We deny the petition for review.

The BIA did not abuse its discretion in denying Petitioners' motion to reopen as untimely because it was filed more than 22 months after the BIA's June 16, 2003 orders dismissing Petitioners' appeal, and Petitioners failed to demonstrate changed circumstances in Indonesia. *See* 8 C.F.R. §§ 1003.2(c)(2), (c)(3)(ii); *see also Malty*, 381 F.3d at 945 ("The critical question is . . . whether circumstances have changed sufficiently that a petitioner who previously did not have a legitimate claim for asylum now has a well-founded fear of future persecution.").

Petitioners' contention that the BIA violated due process because it did not allow them to present evidence at a hearing fails. *See* 8 C.F.R. § 1003.2(c)(1) (motion to reopen must state new facts that will be proven at a hearing to be held if the motion is granted); *see also Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for a due process violation).

**PETITION FOR REVIEW DENIED.**