

MAR 04 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RODRIGO AVILA SANDOVAL; MARGARITA AVILA,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
--

No. 06-74710

Agency Nos. A097-369-423
A097-369-424

MEMORANDUM*

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

Submitted February 18, 2009**

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Rodrigo Avila Sandoval and Margarita Avila, husband and wife and natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' order summarily affirming an immigration judge's ("IJ") decision denying their

* 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).

motion to reopen removal proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Celis-Castellano v. Ashcroft*, 298 F.3d 888, 890 (9th Cir. 2002), and we deny the petition for review.

The IJ did not abuse his discretion in denying petitioners' motion to reopen for failure to establish exceptional circumstances. The IJ informed petitioners of the consequences of failing to appear at their removal hearing and petitioners chose instead to follow the advice of their immigration consultant and miss the hearing. *See Singh-Bhathal v. INS*, 170 F.3d 943, 946-47 (9th Cir. 1999) (reliance on advice of non-attorney immigration consultant insufficient to demonstrate "exceptional circumstances").

PETITION FOR REVIEW DENIED.