

APR 03 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARTIN JIMENEZ HERRERA; CARMEN JIMENEZ,</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. 05-75119

Agency Nos. A096-061-858
A096-061-859

MEMORANDUM*

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

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Martin Jimenez Herrera and Carmen Jimenez, spouses and natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order dismissing their appeal from an immigration judge's ("IJ") decision

* 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).

denying their applications for cancellation of removal. We dismiss the petition for review.

The BIA adopted the IJ's opinion, which concluded that administrative closure was not warranted in petitioners' case because of the government's opposition. We lack jurisdiction to review the agency's denial of petitioners' request for administrative closure. *See Diaz-Covarrubias v. Mukasey*, 551 F.3d 1114, 1120 (9th Cir. 2009).

We also lack jurisdiction to review petitioners' due process claim because they failed to raise that issue before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (exhaustion is generally mandatory and jurisdictional).

PETITION FOR REVIEW DISMISSED.