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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAVIER AGUILAR PEREZ; ANA BELEN SERRANO ZAPIEN, Petitioners, v. ERIC H. HOLDER, Jr., Attorney General, Respondent.	No. 06-73593 Agency Nos. A095-294-850 A095-294-851 MEMORANDUM [*]

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

Submitted April 13, 2009 [**]

Before: GRABER, GOULD, and BEA, Circuit Judges.

Javier Aguilar Perez and Ana Belen Serrano Zapien, husband and wife and natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reconsider its order dismissing as

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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).

KS/Research

untimely their appeal from an immigration judge's ("IJ") removal order. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the BIA's denial of a motion to reconsider, *Oh v. Gonzales*, 406 F.3d 611, 612 (9th Cir. 2005), and we deny the petition for review.

The BIA did not abuse its discretion in denying petitioners' motion to reconsider because the motion failed to identify any errors of fact or law in the BIA's order dismissing their appeal as untimely. *See* 8 C.F.R. § 1003.2(b)(1). The record reflects that the IJ issued a decision on December 21, 2005, the notice of appeal was due on January 20, 2006, and the BIA did not receive it until January 23, 2006. *See* 8 C.F.R. § 1003.38(b), (c) (thirty days to file the notice of appeal, and date of filing is date BIA receives notice).

PETITION FOR REVIEW DENIED.