

August 2, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-60325  
Summary Calendar

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JIAHUA HUANG; HUAN HUANG,

Petitioners,

versus

ALBERTO R. GONZALES, U. S. ATTORNEY GENERAL,

Respondent.

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Petition for Review of an Order of the  
Board of Immigration Appeals  
BIA No. A79 512 845  
BIA No. A79 512 844  
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Before DAVIS, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Jiahua Huang and his son, Huan Huang, petition for review of the Board of Immigration Appeals' dismissal of their appeal of the Immigration Judge's order pretermittting their applications for adjustment of status. The Huangs argue that their motion to reopen proceedings vacated the prior order that they voluntarily depart by a certain date. This argument lacks merit. Banda-Ortiz v. Gonzales, 445 F.3d 387 (5th Cir. 2006), cert. denied, 127 S. Ct. 1874 (2007). The Huangs argue that the BIA's order

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

reopening proceedings was an implicit holding that they were statutorily eligible for adjustment of status and that this comprises the "law of the case." This argument is without merit. The referenced order expressly afforded both parties the opportunity to present evidence regarding the Huangs' statutory and discretionary eligibility for adjustment of status. There was no finding, implicit or otherwise, that the Huangs were statutorily eligible for adjustment of status.

PETITION DENIED.