

JUL 06 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AIZHEN ZHOU,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 04-76008

Agency No. A096-055-206

MEMORANDUM*

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

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Aizhen Zhou, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reconsider. Our jurisdiction is governed by 8 U.S.C. § 1252. Reviewing for abuse of discretion,

* 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).

Lara-Torres v. Ashcroft, 383 F.3d 968, 972 (9th Cir. 2004), we deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Zhou's motion to reconsider because the motion failed to identify any error of law or fact in the BIA's June 24, 2004, order. *See* 8 C.F.R. § 1003.2(b)(1); *see also Iturribarria v. INS*, 321 F.3d 889, 895-96 (9th Cir. 2003) (a motion to reconsider must identify an error of fact or law in the prior decision). Zhou's contention that the denial of his motion to reconsider violated due process therefore fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for due process violation).

To the extent Zhou challenges the BIA's underlying order dismissing her appeal, we lack jurisdiction because this petition is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1); *Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.