

AUG 31 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>WEIQI JIN; JING LI,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 06-73961

Agency Nos. A078-112-604
A074-797-395

MEMORANDUM*

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

Submitted August 20, 2009**

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Weiqi Jin and his wife, natives and citizens of China, petition for review of the Board of Immigration Appeals' ("BIA") order dismissing their appeal from an immigration judge's ("IJ") decision denying their motion for reconsideration. Our

* 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).

jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion, *Lara-Torres v. Ashcroft*, 383 F.3d 968, 972 (9th Cir. 2004), and we grant in part and dismiss in part the petition for review.

The agency abused its discretion when it denied Jin's motion to reconsider, because the IJ failed to balance favorable factors against negative factors when denying asylum in the exercise of discretion. *See Gulla v. Gonzales*, 498 F.3d 911, 915-16 (9th Cir. 2007) (agency abuses its discretion when in denying relief it fails to properly consider all relevant factors and explain how each figures in the balance); *see also* 8 C.F.R. § 1003.2(b)(1) (motion to reconsider identifies errors of law or fact in the agency's prior decision).

To the extent Jin challenges the BIA's November 29, 2006 order denying his second motion to reconsider, the court lacks jurisdiction because Jin did not file a petition for review of that decision. *See Stone v. INS*, 514 U.S. 386, 405 (1995).

The parties shall each bear their own costs on appeal.

**PETITION FOR REVIEW DISMISSED in part; GRANTED in part;
REMANDED.**