

FEB 24 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ANTHONY W. CHIU,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 07-72886

Agency No. A077-250-473

MEMORANDUM*

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

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Anthony W. Chiu, a native and citizen of Canada, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order denying his motions to reopen and reconsider. Our jurisdiction is pursuant to 8 U.S.C. § 1252. We review

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

for abuse of discretion the denial of motions to reopen and reconsider, *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005), and we deny in part and dismiss in part the petition for review.

The BIA properly construed Chiu's April 26, 2007, filing as a motion to reopen and reconsider. *See id.* at 793. So construed, the BIA did not abuse its discretion in denying the motion to reopen because Chiu failed to offer any new or previously unavailable evidence. *See* 8 C.F.R. § 1003.2(c)(1).

The BIA did not abuse its discretion in denying the motion to reconsider as untimely because it was filed beyond the thirty-day time limit for motions to reconsider. *See* 8 C.F.R. § 1003.2(b)(2).

We lack jurisdiction to review Chiu's challenges to the agency's February 28, 2007, order because this petition for review is not timely as to that order. *See Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.