

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WEN-YING QIU, a.k.a. CHAO-YING LI,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71102

Agency No. A072-938-036

MEMORANDUM\*

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

Submitted December 14, 2010\*\*

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

Wen-Ying Qiu, a native and citizen of China, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's decision denying her motion to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen,

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

*He v. Gonzales*, 501 F.3d 1128, 1130-31 (9th Cir. 2007), and we deny in part and dismiss in part the petition for review.

The agency did not abuse its discretion in denying Qiu's motion to reopen as untimely because Qiu filed it over eleven years after the agency issued its final removal order, *see* 8 C.F.R. § 1003.2(c)(2), and Qiu failed to demonstrate changed country conditions, including a change in laws or the enforcement of family planning laws, to qualify for the regulatory exception to the time limit for filing motions to reopen, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *Lin v. Holder*, 588 F.3d 981, 988-989 (9th Cir. 2009); *He*, 501 F.3d at 1132. We reject Qiu's contention that the BIA erred in its evaluation of the evidence. *See* 8 C.F.R. § 1003.2(c)(1).

Finally, we lack jurisdiction to consider Qiu's claim that she failed to receive proper notice of her removal hearing date, because she failed to exhaust this before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**