

APR 11 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

YIMEI WENG,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-73852

Agency No. A072-783-600

MEMORANDUM*

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

Submitted April 5, 2011 **

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Yimei Weng, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Lin v. Holder*, 588 F.3d 981, 984

* 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).

(9th Cir. 2009), and we deny the petition for review.

The BIA did not abuse its discretion by denying Weng's second motion to reopen as untimely and numerically barred, where the motion was filed nearly eleven years after the immigration judge's December 6, 1996, order denying her first motion to reopen, *see* 8 C.F.R. § 1003.2(c)(2), and Weng failed to show changed circumstances in China in order to qualify for the regulatory exception to the filing deadline, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *Lin*, 588 F.3d at 988-89 (record did not show material change in enforcement of family planning laws sufficient to establish changed country conditions and excuse an untimely motion to reopen).

Weng's contention that on December 13, 1994, she was improperly ordered removed *in absentia* is belied by the record.

PETITION FOR REVIEW DENIED.