

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 24 2013

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

XIU CHAI JIN,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-74758

Agency No. A071-568-382

MEMORANDUM*

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

Submitted April 19, 2013**
San Francisco, California

Before: NOONAN, O'SCANNLAIN, and N.R. SMITH, Circuit Judges.

Xiu Chai Jin, a native and citizen of China, petitions for review of the BIA's decision denying her second motion to reopen immigration proceedings. We dismiss in part and deny in part her petition for 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).

The BIA has “broad discretion to grant or deny” motions to reopen immigration proceedings. *INS v. Doherty*, 502 U.S. 314, 323 (1992). Here, the BIA did not abuse its discretion when it determined that Jin failed to show reasonable cause for missing her exclusion hearing in 1993 and for delaying thirteen years before filing her first motion to reopen. Likewise, the BIA did not abuse its discretion when it found that Jin failed to show changed circumstances in China sufficient to justify reopening immigration proceedings.

We lack jurisdiction to review Jin’s claim to the extent she challenges the BIA’s refusal to exercise its *sua sponte* discretion to reopen. *Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002); *see also Mejia-Hernandez v. Holder*, 633 F.3d 818, 823–24 (9th Cir. 2011) (reaffirming *Ekimian*).

PETITION FOR REVIEW DISMISSED in part and DENIED in part.