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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FEN KUI CHEN,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 04-74208

Agency No. A73-610-027

MEMORANDUM*

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

Submitted June 18, 2008**

Before: LEAVY, HAWKINS, and W. FLETCHER, Circuit Judges

Fen Kui Chen, a native and citizen of China, petitions *pro se* for review of the Board of Immigration Appeals' ("BIA") order denying: (1) his motion to reconsider the BIA's order that denied his motion to reopen; (2) his motion to

* 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).

reopen; and (3) the BIA's order dismissing his appeal from an immigration judge's ("IJ") decision denying Chen's application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). Our jurisdiction is governed by 8 U.S.C. § 1252. We review the BIA's denial of a motion to reconsider for abuse of discretion. *Lara-Torres v. Ashcroft*, 383 F.3d 968, 972 (9th Cir. 2004). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to consider both the BIA's order dismissing Chen's appeal from the IJ's decision denying Chen's application for asylum, withholding of removal, and CAT relief, and the BIA's denial of his motion to reopen because Chen did not timely petition this court for review of either order. *See Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

The BIA did not abuse its discretion in denying Chen's motion to reconsider because Chen did not demonstrate errors of fact or law in the BIA's order denying the motion to reopen. *See* 8 C.F.R. § 1003.2(b)(1).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.