

DEC 28 2007

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

LONG XUE LIN,

Petitioner,

v.

MICHAEL B. MUKASEY,\* Attorney  
General,

Respondent.

No. 05-76994

Agency No. A79-782-573

MEMORANDUM\*\*

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

Submitted December 3, 2007\*\*\*

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

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\* Pursuant to Fed. R. App. P. 43(c)(2), Michael B. Mukasey is substituted for his predecessor, Alberto R. Gonzales, as Attorney General of the United States.

\*\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

Long Xue Lin, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. To the extent we have jurisdiction, it is under 8 U.S.C. § 1252. We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the BIA's April 16, 2004, order dismissing Lin's direct appeal from the Immigration Judge's decision because the petition for review is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1); *Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

We lack jurisdiction over Lin's claim that the deadline for filing a motion to reopen should have been equitably tolled because Lin did not raise this claim before the BIA and thereby failed to exhaust his administrative remedies. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (explaining that this court lacks jurisdiction to review contentions not raised before the BIA).

Lin has not provided argument on, and has therefore waived any challenge to, the BIA's determination that he failed to establish "changed circumstances" in China. *See Ghahremani v. Gonzales*, 498 F.3d 993, 997-98 (9th Cir. 2007).

Lin's due process claim is not colorable. *See Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001).

**PETITION FOR REVIEW DISMISSED IN PART; DENIED IN PART.**