

APR 06 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>YONGCONG GUO,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
--

No. 06-73677

Agency No. A096-050-234

MEMORANDUM*

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

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Yongcong Guo, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reconsider.

Our jurisdiction is governed by 8 U.S.C. § 1252. Reviewing for abuse of

* 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).

discretion, *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002), we deny in part and dismiss in part the petition for review.

Construed as a motion to reopen, the BIA did not abuse its discretion in denying Guo's May 1, 2006 motion. *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002) (BIA's denial of a motion to reopen shall be reversed only if it is "arbitrary, irrational, or contrary to law").

Construed as a motion for reconsideration, the BIA did not abuse its discretion in denying Guo's motion because the motion failed to identify any error of law or fact in the BIA's March 30, 2006 decision denying his earlier motion to reopen. *See* 8 C.F.R. § 1003.2(b)(1).

To the extent Guo challenges the BIA's December 7, 2005 and March 30, 2006 orders, we lack jurisdiction because this petition for review is not timely as to those orders. *See* 8 U.S.C. § 1252(b)(1); *Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.