

APR 27 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>YAN LIU,</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. 06-74686

Agency No. A079-535-843

MEMORANDUM*

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

Submitted April 13, 2009**

Before: GRABER, GOULD, and BEA, Circuit Judges.

Yan Liu, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order of removal, denying Liu's motion to remand to apply for asylum. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review

* 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).

for abuse of discretion the BIA's denial of a motion to remand, *Romero-Ruiz v. Mukasey*, 538 F.3d 1057, 1062 (9th Cir. 2008), and we deny the petition for review.

The BIA did not abuse its discretion in denying Liu's motion to remand to apply for asylum, where Liu chose to apply for adjustment of status and voluntary departure only, and not to apply for asylum in proceedings before the immigration judge, and Liu failed to show reasonable cause for submitting a late application. *See Ramirez-Alejandre v. Ashcroft*, 319 F.3d 365, 382 (9th Cir. 2003) (a motion to remand must meet all the requirements of a motion to reopen and the two are treated the same); *see also 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").

PETITION FOR REVIEW DENIED.