FILED

SEP 03 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SHUHUA WANG, Petitioner, v. ERIC H. HOLDER Jr., Attorney General, Respondent.	No. 07-72862 Agency No. A096-072-707 MEMORANDUM [*]

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

Submitted August 20, 2009 [**]

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Shuhua Wang, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We have jurisdiction pursuant to 8 U.S.C. § 1252. We

[*] 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).

JK/Research

review for abuse of discretion the denial of a motion to reopen, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we deny the petition for review.

The BIA did not abuse its discretion in denying Wang's motion to reopen as untimely because he filed it over two years after the BIA issued its final order, *see* 8 C.F.R. § 1003.2(c)(2), and Wang failed to demonstrate changed circumstances in China to qualify for the regulatory exception to the time limit for filing motions to reopen, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *see also Malty v. Ashcroft*, 381 F.3d 942, 945 (9th Cir. 2004) ("The critical question is . . . whether circumstances have changed sufficiently that a petitioner who previously did not have a legitimate claim for asylum now has a well-founded fear of future persecution.").

PETITION FOR REVIEW DENIED.