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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HONG HWA GIL, a.k.a. Hong Hua Ji, a.k.a. Hee Jung Lee,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 09-71901

Agency No. A079-800-947

MEMORANDUM*

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

Submitted March 9, 2011**

Before: FARRIS, O’SCANNLAIN, and BYBEE, Circuit Judges.

Hwa Gil, a native and citizen of China, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

denial of a motion to reopen, *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010), and we deny the petition for review.

The BIA did not abuse its discretion in denying Gil's motion to reopen as untimely because the motion was filed over 90 days after the BIA's final administrative decision, *see* 8 C.F.R. § 1003.2(c)(2), and because Gil failed to demonstrate changed country conditions material to her claim in order 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); *Almaraz v. Holder*, 608 F.3d 638, 640-41 (9th Cir. 2010) (denying petition for review where evidence of changed country conditions was not material to petitioner).

To the extent Gil contends the BIA failed to consider all of the evidence she submitted with the motion to reopen, she has not overcome the presumption that the BIA did review the record. *See Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006).

Gil submitted additional evidence with her opening brief to this Court, which cannot be considered on review. *See* 8 U.S.C. § 1252(b)(4)(A) (the court of appeals shall decide the petition only on the administrative record on which the order of removal is based).

PETITION FOR REVIEW DENIED.