

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 07-1304**

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FEN YONG CHEN, a/k/a Fen Yuan Chen,

Petitioner,

versus

PETER D. KEISLER, Acting Attorney General,

Respondent.

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On Petition for Review of an Order of the Board of Immigration Appeals. (A72-731-915)

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Submitted: October 31, 2007

Decided: November 14, 2007

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Before WILKINSON, NIEMEYER, and SHEDD, Circuit Judges.

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Petition dismissed in part; denied in part by unpublished per curiam opinion.

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Fen Yong Chen, Appellant Pro Se. M. Jocelyn Lopez Wright, Tyrone Sojourner, Jason Xavier Hamilton, U.S. DEPARTMENT OF JUSTICE, Washington, D.C.; Javier E. Balasquide, Chief Counsel, DEPARTMENT OF HOMELAND SECURITY, Arlington, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Fen Yong Chen, a native and citizen of the People's Republic of China, petitions for review of an order of the Board of Immigration Appeals ("Board") denying his motion to reopen deportation proceedings based upon changed circumstances. We have reviewed the administrative record and the Board's order and conclude that the Board did not abuse its discretion. See Barry v. Gonzales, 445 F.3d 741, 745 (4th Cir. 2006), cert. denied, 127 S. Ct. 1147 (2007). We lack jurisdiction to consider Chen's argument that he is eligible for withholding of removal under the Convention Against Torture based on an alleged fear of punishment for his illegal departure from China or asylum request, because Chen failed to exhaust his administrative remedies by making this argument before the Board. See Asika v. Ashcroft, 362 F.3d 264, 267 n.3 (4th Cir. 2004). Accordingly, we dismiss in part and deny in part the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DISMISSED IN PART;  
DENIED IN PART