

MAR 14 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>TAO 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. 10-73361

Agency No. A075-730-025

MEMORANDUM*

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

Submitted March 6, 2012**

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Tao Liu, a native and citizen of China, petitions for review of the Board of Immigration Appeals’ order summarily affirming an immigration judge’s (“IJ”) decision denying his motion to reopen and rescind his in absentia removal order. We have jurisdiction under 8 U.S.C. § 1252. Reviewing for abuse of discretion,

* 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).

Celis-Castellano v. Ashcroft, 298 F.3d 888, 890-91 (9th Cir. 2002), we grant and remand the petition for review.

The IJ abused his discretion in denying Liu’s motion on the ground that Liu “has not provided evidence to suggest” his immigration consultant attended Liu’s asylum interview and immigration proceedings unbeknownst to Liu, where Liu provides an outline of the events in his sworn affidavit. *See Celis-Castellano*, 298 F.3d at 892 (“[T]he Board must accept the facts in an alien’s affidavit as true unless inherently unbelievable.”).

We grant the petition and remand.

PETITION FOR REVIEW GRANTED; REMANDED.