

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 22 2023

FOR THE NINTH CIRCUIT

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

AIZHANG LI, AKA Ai Zhang Li,

Petitioner,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

Nos. 18-70174  
18-71759

Agency No. A206-195-074

MEMORANDUM\*

On Petitions for Review of Orders of the  
Board of Immigration Appeals

Submitted February 14, 2023\*\*

Before: FERNANDEZ, FRIEDLAND, and H.A. THOMAS, Circuit Judges.

In these consolidated petitions for review, Aizhang Li, a native and citizen of China, petitions pro se for review of the Board of Immigration Appeals' ("BIA") decisions denying his motion to reopen and reissue its August 23, 2017, decision (petition No. 18-70174) and denying his subsequent motion to reconsider

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

(petition No. 18-71759). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the BIA's denial of a motion to reopen and reissue. *Hernandez-Velasquez v. Holder*, 611 F.3d 1073, 1077 (9th Cir. 2010). We review de novo claims of due process violations in immigration proceedings. *Simeonov v. Ashcroft*, 371 F.3d 532, 535 (9th Cir. 2004). We review for abuse of discretion the denial of a motion to reconsider. *Lona v. Barr*, 958 F.3d 1225, 1229 (9th Cir. 2020). In 18-70174, we deny in part and dismiss in part the petition for review. In 18-71759, we deny the petition for review.

As to petition No. 18-70174, the BIA did not abuse its discretion or violate Li's due process rights in declining to reissue its decision, where the BIA considered the evidence and arguments in concluding that the circumstances were inadequate to warrant reissuing. *See Singh v. Napolitano*, 649 F.3d 899, 901 (9th Cir. 2011) (BIA has reissued decisions where petitioner has shown lack of notice due to administrative error or ineffective assistance of counsel); *see also Najmabadi v. Holder*, 597 F.3d 983, 990 (9th Cir. 2010) (agency need not write an exegesis on every contention); *Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (petitioner must demonstrate error to prevail on a due process challenge).

We lack jurisdiction to consider Li's contentions regarding the BIA's denial of sua sponte reopening. *See Lona*, 958 F.3d at 1227 (denial of sua sponte reopening is committed to agency discretion and unreviewable).

As to petition No. 18-71759, the BIA did not abuse its discretion or violate Li's due process rights in denying Li's motion to reconsider where he failed to identify any error of law or fact in the BIA's prior decision. *See* 8 C.F.R. § 1003.2(b)(1); *Ma v. Ashcroft*, 361 F.3d 553, 558 (9th Cir. 2004) ("A petitioner's motion to reconsider must identify a legal or factual error in the BIA's prior decision."); *Lata*, 204 F.3d at 1246.

The stay of removal remains in place until the mandate issues.

**NO. 18-70174: PETITION FOR REVIEW DENIED in part;  
DISMISSED in part.**

**NO. 18-71759: PETITION FOR REVIEW DENIED.**