

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

AMENDED SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 23rd day of January, two thousand twenty.

PRESENT:

**JON O. NEWMAN,
JOHN M. WALKER, JR.,
Circuit Judges.¹**

**WEI HUA JIANG,
Petitioner,**

v.

**WILLIAM P. BARR, UNITED STATES
ATTORNEY GENERAL,
Respondent.**

**17-4071
NAC**

FOR PETITIONER: Gary J. Yerman, New York, NY.

FOR RESPONDENT: Chad A. Readler, Acting Assistant Attorney General; Melissa Neiman-Kelting, Assistant Director; Sara

¹ Judge Christopher F. Droney, who was originally assigned to the panel, retired from the Court, effective January 1, 2020, prior to the resolution of this case. The remaining two members of the panel, who are in agreement, have determined the matter. See 28 U.S.C. § 46(d); 2d Cir. IOP E(b); *United States v. Desimone*, 140 F.3d 457, 458–59 (2d Cir. 1998).

1 J. Bayram, Trial Attorney, Office
2 of Immigration Litigation, United
3 States Department of Justice,
4 Washington, DC.
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6 UPON DUE CONSIDERATION of this petition for review of a
7 Board of Immigration Appeals ("BIA") decision, it is hereby
8 ORDERED, ADJUDGED, AND DECREED that the petition for review
9 is DENIED.

10 Petitioner Wei Hua Jiang, a native and citizen of the
11 People's Republic of China, seeks review of a December 4,
12 2017, decision of the BIA denying Jiang's motion to reopen
13 his removal proceedings. *In re Wei Hua Jiang*, No. A 200 939
14 375 (B.I.A. Dec. 4, 2017). We assume the parties'
15 familiarity with the underlying facts and procedural history
16 in this case.

17 We review the denial of a motion to reopen for abuse of
18 discretion and the BIA's country conditions determination for
19 substantial evidence. *Jian Hui Shao v. Mukasey*, 546 F.3d
20 138, 168-69 (2d Cir. 2008). An alien seeking to reopen may
21 file one motion to reopen no later than 90 days after the
22 final administrative decision. 8 U.S.C. § 1229a(c)(7)(A),
23 (C)(i); 8 C.F.R. § 1003.2(c)(2). It is undisputed that

1 Jiang's motion to reopen filed in 2017 was untimely because
2 it was filed more than four years after the 2012 final
3 administrative decision. See 8 U.S.C. § 1229a(c)(7)(C)(i);
4 8 C.F.R. § 1003.2(c)(2). This time limitation is excused if
5 the motion is filed in order to apply for asylum "based on
6 changed country conditions arising in the country of
7 nationality or the country to which removal has been ordered,
8 if such evidence is material and was not available and would
9 not have been discovered or presented at the previous
10 proceedings." 8 U.S.C. § 1229a(c)(7)(C)(ii); see also
11 8 C.F.R. § 1003.2(c)(3)(ii). Substantial evidence supports
12 the agency's conclusion that Jiang's evidence was
13 insufficient to establish a material change in conditions in
14 his home province of Fujian.

15 The country conditions evidence reveals that the Chinese
16 government's treatment of Christians has remained consistent
17 since Jiang's 2011 hearing. See *In re S-Y-G-*, 24 I. & N.
18 Dec. 247, 253 (BIA 2007) ("In determining whether evidence
19 accompanying a motion to reopen demonstrates a material
20 change in country conditions that would justify reopening,
21 [the agency] compare[s] the evidence of country conditions

1 submitted with the motion to those that existed at the time
2 of the merits hearing below."). The United States has
3 designated China as a "Country of Particular Concern" under
4 the Religious Freedom Act since 1999. The record
5 demonstrates that since at least 2011, Christians attending
6 unauthorized churches in certain areas in China have faced
7 repression.

8 As evidence that conditions have worsened, Jiang cites
9 2016 reports for the proposition that "the Chinese government
10 has a strong will to promote 'Sinicization' of house churches
11 and religious activities." This statement, however, does not
12 demonstrate an increase in persecution because it does not
13 connect the new policy to incidents of harm amounting to
14 persecution or changed treatment of Christian worshippers.
15 See 8 U.S.C. § 1229a(c)(7)(C)(ii) (requiring *material* change
16 in conditions); *In re S-Y-G-*, 24 I. & N. Dec. at 257 ("Change
17 that is incremental or incidental does not meet the regulatory
18 requirements for late motions of this type.").

19 Moreover, even though the Chinese government announced a
20 Sinicization policy, and even if the persecution of
21 Christians increased in some areas of China, Jiang's evidence

1 did not show an increase in persecution in his home province,
2 Fujian. When conditions vary throughout a country, an
3 applicant is required to show a material change in conditions
4 in his area. See *Jian Hui Shao*, 546 F.3d at 170 (reasoning
5 that, when policies “vary widely from one area of the country
6 to another . . . it is appropriate to review the evidence
7 to determine, first, what policy applies to the circumstances
8 at issue and, second, whether local officials would be
9 inclined to view the petitioner’s actions as a violation of
10 that policy”). However, the only new evidence that Jiang
11 cites regarding persecution of Christians in Fujian Province
12 describes demolitions of unregistered churches. Given his
13 2011 evidence that the Chinese government pressured
14 unregistered churches to affiliate with patriotic religious
15 associations, Jiang’s new evidence demonstrates not an
16 increase in subjugation of Christian groups but rather a
17 continuation of a decades-long government effort to control
18 religious doctrine, repress unsanctioned religious groups,
19 and crack down on religious growth. See *In re S-Y-G-*, 24 I.
20 & N. Dec. at 257.

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1 Therefore, because the agency reasonably concluded that
2 Jiang's evidence failed to demonstrate a material change in
3 conditions as needed to excuse the untimely filing of his
4 motion, the agency did not abuse its discretion in denying
5 his motion to reopen. See 8 U.S.C. § 1229a(c)(7)(C).
6 Because this finding is dispositive, we do not reach the
7 agency's alternative finding that Jiang failed to establish
8 his prima facie eligibility for relief. See *INS v.*
9 *Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts
10 and agencies are not required to make findings on issues the
11 decision of which is unnecessary to the results they reach.").

12 For the foregoing reasons, the petition for review is
13 DENIED. As we have completed our review, any stay of removal
14 that the Court previously granted in this petition is VACATED,
15 and any pending motion for a stay of removal in this petition
16 is DISMISSED as moot. Any pending request for oral argument
17 in this petition is DENIED in accordance with Federal Rule of
18 Appellate Procedure 34(a)(2), and Second Circuit Local Rule
19 34.1(b).

20 FOR THE COURT:
21 Catherine O'Hagan Wolfe,
22 Clerk of Court