

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-1641

JING NONG CAO,

Petitioner,

versus

ALBERTO R. GONZALES, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A70-310-939)

Submitted: December 12, 2005

Decided: January 17, 2006

Before WILLIAMS, GREGORY, and SHEDD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Gary J. Yerman, New York, New York, for Petitioner. Peter D. Keisler, Assistant Attorney General, M. Jocelyn Lopez Wright, Assistant Director, Song E. Park, OFFICE OF IMMIGRATION LITIGATION, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Jing Nong Cao, 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 his immigration proceedings.

Based on our review of the record, we find that the Board did not abuse its discretion in denying the motion as untimely filed. See 8 C.F.R. § 1003.2(c)(2) (2005). We further find that we lack jurisdiction to review Cao's claim that the Board should have exercised its sua sponte power to reopen his deportation proceedings. See Harchenko v. INS, 379 F.3d 405, 410-11 (6th Cir. 2004); Enriquez-Alvarado v. Ashcroft, 371 F.3d 246, 249-50 (5th Cir. 2004); Belay-Gebbru v. INS, 327 F.3d 998, 1000-01 (10th Cir. 2003); Calle-Vujiles v. Ashcroft, 320 F.3d 472, 474-75 (3d Cir. 2003); Ekimian v. INS, 303 F.3d 1153, 1159 (9th Cir. 2002); Luis v. INS, 196 F.3d 36, 40-41 (1st Cir. 1999).

Accordingly, we deny 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 DENIED