

1 UPON DUE CONSIDERATION of this petition for review of a
2 Board of Immigration Appeals ("BIA") decision, it is hereby
3 ORDERED, ADJUDGED, AND DECREED, that the petition for review
4 is DENIED.

5 Petitioner Xiao Cong Wu, a native and citizen of the
6 People's Republic of China, seeks review of the September
7 23, 2010, decision of the BIA denying his motion to reopen.
8 *In re Xiao Cong Wu*, No. A095 864 126 (B.I.A. Sept. 23,
9 2010). We assume the parties' familiarity with the
10 underlying facts and procedural history of the case.

11 The BIA's denial of Wu's motion to reopen as untimely
12 was not an abuse of discretion. See *Kaur v. BIA*, 413 F.3d
13 232, 233 (2d Cir. 2005) (per curiam). A motion to reopen
14 generally must be filed no later than 90 days after the date
15 on which the final administrative decision was rendered in
16 the proceedings sought to be reopened. 8 U.S.C.

17 § 1229a(c)(7)(C)(i); 8 C.F.R. § 1003.2(c)(2). There is no
18 dispute that Wu's 2010 motion was untimely, as the final
19 administrative decision was issued in March 2009.
20 See 8 U.S.C. § 1229a(c)(7)(C)(i); 8 C.F.R. § 1003.2(c)(2).
21 The time limitation does not apply to a motion to reopen if
22 it is "based on changed circumstances arising in the country
23 of nationality or in the country to which deportation has

1 been ordered, if such evidence is material and was not
2 available and could not have been discovered or presented at
3 the previous hearing." 8 C.F.R. § 1003.2(c)(3)(ii); see
4 also 8 U.S.C. § 1229a(c)(7)(C)(ii). However, the BIA did
5 not abuse its discretion in finding that Wu failed to
6 establish changed circumstances in China.

7 The only evidence Wu proffered of changed circumstances
8 arising in China was a letter from his wife - in which she
9 stated that after Wu mailed her materials pertaining to
10 Chinese democracy, she was detained by the Chinese
11 government for ten days, and government officials told her
12 they would arrest Wu if he returned to China - and a
13 "Certificate of Detention" stating that Wu's wife had been
14 detained in March 2009. The BIA's determination that this
15 evidence was of little probative value is entitled to
16 deference, particularly in light of the agency's prior
17 adverse credibility determination, and the fact that the
18 "Certificate of Detention" was unauthenticated. See *Qin Wen*
19 *Zheng v. Gonzales*, 500 F.3d 143, 149 (2d Cir. 2007) (holding
20 that the BIA did not abuse its discretion in discrediting a
21 purported village notice where the document was not
22 authenticated and the alien had been found not credible by
23 the IJ); see also *Xiao Ji Chen v. U.S. Dep't of Justice*, 471

1 F.3d 315, 342 (2d Cir. 2006). Moreover, the letter from
2 Wu's wife was unsworn and from an interested witness. See
3 *Matter of H-L-H- & Z-Y-Z-*, 25 I. & N. Dec. 209, 215 (BIA
4 2010) (giving diminished weight to letters from friends and
5 relatives where they were written by interested witnesses
6 not subject to cross-examination). Because the evidence Wu
7 submitted was insufficient to establish a change in
8 circumstances or country conditions, the BIA did not abuse
9 its discretion in concluding that he failed to meet an
10 exception to the filing deadline, and, accordingly, in
11 denying his motion to reopen. See 8 U.S.C.
12 § 1229a(c)(7)(C)(i), (ii); 8 C.F.R. § 1003.2(c)(2), (3).

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

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