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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TINEKE LEONORA MALONDA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 04-74027

Agency No. A096-061-987

MEMORANDUM\*

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

Submitted January 13, 2009\*\*

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Tineke Leonora Malonda, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' order summarily affirming an immigration judge's ("IJ") decision denying her application for asylum,

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

withholding of removal, and protection under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence adverse credibility findings, *Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004), and de novo claims of due process violations, *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the IJ’s determination that Malonda failed to timely file her asylum application because the underlying facts are disputed. *Cf. Ramadan v. Gonzales*, 479 F.3d 646, 650 (9th Cir. 2007) (per curiam).

We deny Malonda’s due process contention because she has not established any error of law by the agency. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000).

Substantial evidence supports the IJ’s adverse credibility determination because the IJ had reason to question Malonda’s credibility based on the inconsistency between her testimony and documentary evidence regarding how she escaped from her alleged attackers, Malonda failed to produce non-duplicative, material, easily available corroborating evidence, and she did not provide a credible explanation for this failure. *See Sidhu v. INS*, 220 F.3d 1085, 1092 (9th

Cir. 2000). Accordingly, Malonda's withholding of removal claim fails. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Substantial evidence also supports the IJ's denial of CAT relief because Malonda did not establish a likelihood of torture by, at the instigation of, or with the consent or acquiescence of the Indonesian government. *See Arteaga v. Mukasey*, 511 F.3d 940, 948-49 (9th Cir. 2007).

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**