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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JORGEN LESTER RAMA MASENGI,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 05-76236

Agency No. A096-361-806

MEMORANDUM *

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

Submitted June 11, 2009**
San Francisco, California

Before: TROTT, McKEOWN, and IKUTA, Circuit Judges.

We lack jurisdiction over Masengi’s asylum claim because it was untimely filed. *See Husyev v. Mukasey*, 528 F.3d 1172, 1178 (9th Cir. 2008).

Masengi is not eligible for withholding of removal under 8 U.S.C. § 1231(b)(3) or the Convention Against Torture, because substantial evidence in

* 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. P. 34(a)(2)*.

the record supports the BIA's determination that Masengi does not face a clear probability of either persecution on account of his race and religion or torture, *see Khourassany v. INS*, 208 F.3d 1096, 1100 (9th Cir. 2000), even taking into account his membership in disfavored religious and racial groups, *see Wakkary v. Holder*, 558 F.3d 1049, 1065 (9th Cir. 2009). There is no evidence of IJ bias with respect to Masengi's contention that the IJ had a pre-conceived notion of conditions in Indonesia such that the IJ believed that no individual from that country could establish a grounds for relief. Likewise, there is no basis for Masengi's claim that the IJ's decision was based on speculation rather than substantial evidence in the record.

Masengi waived any legal argument regarding the propriety of the IJ's exclusion of his expert witness by failing to develop a coherent legal argument in his brief to this court regarding why the IJ erred. *See Kohler v. Inter-Tel Techs.*, 244 F.3d 1167, 1182 (9th Cir. 2001).

PETITION DENIED.