

SEP 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHNSON NAPITULPULU, aka Johnson  
Napitupulu,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-71627

Agency No. A095-634-743

MEMORANDUM\*

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

Submitted September 14, 2009\*\*

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Johnson Napitulpulu, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for withholding of

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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. P. 34(a)(2).

removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009), and we deny the petition for review.

The IJ denied Napitulpulu's asylum application claim as time-barred. Napitulpulu does not challenge this finding in his opening brief.

Substantial evidence supports the IJ's finding that Napitulpulu failed to demonstrate a clear probability of persecution, *see Hoxha v. Ashcroft*, 319 F.3d 1179, 1185 (9th Cir. 2003), and his claim is further undermined by the safe, continued presence of his similarly situated family members in Indonesia, *see Hakeem v. INS*, 273 F.3d 812, 816-17 (9th Cir. 2001). Accordingly, Napitulpulu's withholding of removal claim fails.

**PETITION FOR REVIEW DENIED.**