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U.S. COURT OF APPEALS

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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).

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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.