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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HRACHYA NERSISYAN; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General, Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 05-73066

Agency Nos. A078-662-895
A078-662-896

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.

Hrachya Nersisyan and his son, natives and citizens of Armenia, petition for review of the Board of Immigration Appeals' ("BIA") order affirming an

* 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).

immigration judge's ("IJ") decision denying their application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). Our jurisdiction is governed by 8 U.S.C. § 1252. Reviewing for substantial evidence, *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n.1 (1992), we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the IJ's timeliness determination because the IJ's extraordinary circumstances analysis is based on uncertain dates. *See Ramadan v. Gonzales*, 479 F.3d 646, 650 (9th Cir. 2007) (per curiam) (court had jurisdiction over changed circumstances issue because it involved an application of a statutory standard to "undisputed" facts).

Substantial evidence supports the IJ's finding that Nersisyan failed to establish he suffered harm that rose to the level of past persecution on account of his religion. *See Gu v. Gonzales*, 454 F.3d 1014, 1019 (9th Cir. 2006). Nersisyan also failed to establish a clear probability of future persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1185 (9th Cir. 2003). Accordingly, substantial evidence supports the agency's denial of withholding of removal.

Substantial evidence also supports the IJ's denial of CAT relief because Nersisyan failed to establish a likelihood of torture in Armenia. *See Wakkary*, 558 F.3d 1049, 1068 (9th Cir. 2009).

The BIA's reduction of the voluntary departure period was permissible because the BIA did not issue a streamlined order. *See Padilla-Padilla v. Gonzales*, 463 F.3d 972, 981 (9th Cir. 2006).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.