

DEC 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JERRY ROY WALEAN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-71232

Agency No. A095-629-838

MEMORANDUM*

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

Submitted December 15, 2009**

Before: GOODWIN, WALLACE, and CLIFTON, Circuit Judges.

Jerry Roy Walean, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for asylum and withholding

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

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence findings of fact, *Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 n.4 (9th Cir. 2003), and we deny the petition for review.

The record does not compel the conclusion that Walean has shown changed circumstances to excuse the untimely filing of his asylum application. *See* 8 U.S.C. § 1158(a)(2)(D); 8 C.F.R. § 1208.4(a)(4); *see also Ramadan v. Gonzales*, 479 F.3d 646, 657-58 (9th Cir. 2007) (per curiam).

The record does not compel the conclusion that there is a clear probability Walean would be persecuted on account of his westernization or United States citizen children if he returned to Indonesia. *See Ramadan*, 479 F.3d at 658. Even if the disfavored group analysis set forth in *Sael v. Ashcroft*, 386 F.3d 922, 927-29 (9th Cir. 2004) applies to Walean, a Seventh Day Adventist Christian, he has not demonstrated the requisite individualized risk of persecution. *See Hoxha*, 319 F.3d at 1184-85; *see also Wakkary v. Holder*, 558 F.3d 1049, 1066 (9th Cir. 2009). (“an applicant for withholding of removal will need to adduce a considerably larger quantum of individualized-risk evidence to prevail[.]”). Finally, the record also does not compel the conclusion that there is a pattern or practice of persecution of Christians in Indonesia. *See Wakkary*, 558 F.3d at 1060-62 (9th Cir. 2009).

Accordingly, Walean's withholding of removal claim fails.

PETITION FOR REVIEW DENIED.