

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NOT FOR PUBLICATION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>ELDRIDGE WOY; et al.,</p> <p>Petitioners,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 07-72470

Agency Nos. A078-020-272  
A097-822-389  
A097-822-390

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.

Eldridge Woy, and his wife and son, natives and citizens of Indonesia,  
petition for review of the Board of Immigration Appeals' order dismissing their  
appeal from an immigration judge's decision denying their application for asylum,

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

withholding of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Nagoulko v. INS*, 333 F.3d 1012, 1015 (9th Cir. 2003), and we deny the petition for review.

The BIA denied petitioners’ asylum application as time barred. Petitioners do not challenge this finding.

Substantial evidence supports the agency’s determination that petitioners’ experiences of threats, discrimination, and harassment do not rise to the level of past persecution. *See Wakkary v. Holder*, 558 F.3d 1049, 1059-60 (9th Cir. 2009).

Substantial evidence also supports the agency’s determination that petitioners failed to establish a clear probability of persecution because, even if the disfavored group analysis set forth in *Sael v. Ashcroft*, 386 F.3d 922, 927-29 (9th Cir. 2004) applies to petitioners, Seventh Day Adventist Christians, they have not demonstrated the requisite individualized risk of persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1184-85 (9th Cir. 2003); *see also Wakkary*, 558 F.3d 1049 (“[A]n applicant for withholding of removal will need to adduce a considerably larger quantum of individualized-risk evidence to prevail[.]”).

Further, the record does not compel the conclusion that there is a pattern or

practice of persecution of Christians in Indonesia. *See Wakkary* at 1060-62.

Accordingly, petitioners' withholding of removal claim fails.

Substantial evidence also supports the agency's determination that petitioners are not entitled to CAT relief because they failed to establish it is more likely than not that they will be tortured upon return to Indonesia. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

**PETITION FOR REVIEW DENIED.**