

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 25 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DEMAK WALDERMAN RUMAPEA,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-74596

Agency No. A095-427-720

MEMORANDUM*

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

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Demak Walderman Rumapea, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' ("BIA") order affirming an immigration judge's decision denying his application for withholding of removal.

* 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).

Our jurisdiction is governed by 8 U.S.C. § 1252. Reviewing for substantial evidence, *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009), we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review Rumapea's past persecution claim because it was not exhausted before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004).

Even if the disfavored group analysis set forth in *Sael v. Ashcroft*, 386 F.3d 922, 927-29 (9th Cir. 2004) applied to Batak Christian Indonesians, Rumapea failed to establish a clear probability of persecution because he did not demonstrate an individualized risk of persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1184-85 (9th Cir. 2003); *Lolong v. Gonzales*, 484 F.3d 1173, 1179-80 (9th Cir. 2007) (objective well-founded fear not established because applicant made a general, undifferentiated claim). Finally, the record does not compel the conclusion that Rumapea established a pattern or practice of persecution of Batak Christians in Indonesia. *See Wakkary*, 558 F.3d at 1061. Accordingly, substantial evidence supports the BIA's finding that Rumapea failed to establish it is more likely than not that he will suffer persecution in Indonesia. *See Hoxha*, 319 F.3d at 1185.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.