

APR 15 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

YUNI KURNIAWATI,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-75453

Agency No. A079-195-223

MEMORANDUM*

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

Submitted April 5, 2010**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Yuni Kurniawati, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's ("IJ") decision denying her application for withholding of

* 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).

removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. Reviewing for substantial evidence, *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009), we deny the petition for review.

We decline to address Kurniawati's past persecution claim because that claim was not before the agency after the BIA granted the motion to reopen to address Kurniawati's fear of future harm in Indonesia in light of new Ninth Circuit decisions.¹ *See Ramirez-Altamirano v. Holder*, 563 F.3d 800, 804 (9th Cir. 2009) (noting review is limited to the actual grounds relied upon by BIA). In any event, the record does not compel the conclusion that the mistreatment Kurniawati encountered in Indonesia rose to the level of persecution. *See Wakkary*, 558 F.3d at 1060-61. Further, even as a member of a disfavored group, she has 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 at 1066 ("An applicant for withholding of removal will need to adduce a considerably larger quantum of individualized-risk evidence to prevail . . ."). Accordingly, substantial evidence supports the BIA's denial of Kurniawati's withholding of

¹ In the previous proceedings before the agency, the IJ found Kurniawati had not suffered past persecution and had not otherwise shown a clear probability of future persecution. The BIA summarily affirmed. In a memorandum disposition, the court concluded substantial evidence supported the IJ's denial of withholding of removal. *See Kurniawati v. Ashcroft*, 114 Fed. Appx. 327 (9th Cir. 2004).

removal claim. *See Hoxha*, 319 F.3d at 1184-85.

PETITION FOR REVIEW DENIED.