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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FERDINAND MASSIE, Petitioner, v. ERIC H. HOLDER Jr., Attorney General, Respondent.	No. 07-73523 Agency No. A095-635-811 MEMORANDUM*

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

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Ferdinand Massie, a native and citizen of Indonesia, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). We have

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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).

jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence factual findings. *Tekle v. Mukasey*, 533 F.3d 1044, 1051 (9th Cir. 2008). We deny the petition for review.

The record does not compel the conclusion that extraordinary circumstances excused Massie's untimely filed asylum application. *See* 8 C.F.R. § 1208.4(a)(5); *Ramadan v. Gonzales*, 479 F.3d 646, 656-58 (9th Cir. 2007) (per curiam).

In his opening brief, Massie does not challenge the agency's adverse credibility determination, which is dispositive of his withholding of removal claim. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not specifically raised and argued in an opening brief are waived). Accordingly, his withholding of removal claim fails. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Further, because Massie does not challenge the agency's adverse credibility determination, and he does not point to any evidence in the record indicating it is more likely than not he will be tortured if he returns to Indonesia, his CAT claim fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.