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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FITSGERALD JOHANES,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr. Attorney General,</p> <p>Respondent.</p>
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No. 05-73687

Agency No. A095-629-938

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.

Fitsgerald Johanes, 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, withholding of removal and relief under the Convention Against Torture (“CAT”). We have

* 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, *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 Johanes established changed or extraordinary circumstances to excuse his late filed asylum application. *See* 8 C.F.R. § 1208.4(a)(4), (5). Accordingly, Johanes' asylum claim fails.

Substantial evidence supports the agency's finding that Johanes' encounter with a group of Muslims in 1998 in which they asked to see his identification card, having the front window of his car broken and a church group meeting disturbance did not amount to past persecution. *See Nagoulko v. INS*, 333 F.3d 1012, 1016 (9th Cir. 2003).

Further, substantial evidence supports the agency's conclusion that Johanes has not demonstrated the requisite individualized risk of persecution as a Christian to establish a clear probability of persecution. *See Hoxha*, 319 F.3d at 1184-85, *Wakkary v. Holder*, 558 F.3d 1049, 1064-65 (9th Cir. 2009). Further, on the record, Johanes failed to establish a pattern or practice of persecution of Christians in Indonesia. *See id.* at 1060-61.

Johanes does not raise any arguments in his opening brief regarding the agency's denial of his CAT claim, therefore it is waived. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not supported by argument are deemed waived).

PETITION FOR REVIEW DENIED.