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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RICSON TAMPUBOLON,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 08-70089

Agency No. A079-643-132

MEMORANDUM*

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

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Ricson Tampubolon, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Reyes v. Ashcroft*, 358 F.3d

* 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).

592, 595 (9th Cir. 2004), and we review de novo claims of due process violations in immigration proceedings, *Lata v. INS*, 204 F.3d 1241, 1244 (9th Cir. 2000). We deny the petition for review.

The BIA properly concluded that Tampubolon failed to establish ineffective assistance of counsel, because his attorney's decision to withdraw his application for asylum constituted a tactical decision. *See Magallanes-Damian v. INS*, 783 F.2d 931, 934 (9th Cir. 1986). Tampubolon has not established prejudice to support his due process claim. *See Lata*, 204 F.3d at 1246.

PETITION FOR REVIEW DENIED.