

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>NICO INKIRIWANG,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 08-70090

Agency No. A078-020-239

MEMORANDUM*

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

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and THOMAS, Circuit Judges.

Petitioner Nico Inkiriwang, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals’ (“BIA”) dismissal of his appeal from the Immigration Judge’s (“IJ”) order of removal. Specifically, he asserts that the BIA erred when it determined that his asylum application was untimely, and that

* 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).

he was not entitled to withholding of removal or protection under the Convention Against Torture (“CAT”).¹ We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the IJ’s factual findings. *INS v. Elias-Zacarias*, 502 U.S. 478, 481 & n.1, 112 S. Ct. 812, 815 & n.1, 117 L. Ed. 2d 38 (1992). We deny the petition.

Inkiriwang concedes that he did not file for asylum within one year after he arrived in the United States. *See* 8 U.S.C. § 1158(a)(2)(B). Moreover, substantial evidence supports the IJ’s finding that Inkiriwang failed to demonstrate that changed circumstances materially affected his eligibility for asylum. *See* 8 U.S.C. § 1158(a)(2)(D); 8 C.F.R. § 1208.4(a)(4). The record does not compel the conclusion that a death threat Inkiriwang received in 2002 was anything but a continuation of preexisting circumstances that motivated Inkiriwang to leave Indonesia in the first place. *See Elias-Zacarias*, 502 U.S. at 481 & n.1, 112 S. Ct. at 815 & n.1.

The record also does not compel the conclusion that Inkiriwang was entitled to withholding of removal or protection under the CAT. *See id.*; *see also Farah v. Ashcroft*, 348 F.3d 1153, 1156-57 (9th Cir. 2003). Substantial evidence supports

¹United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, S. Treaty Doc. No. 100-20 (1988), 1465 U.N.T.S. 85 (implemented at 8 C.F.R. § 208.18).

the IJ's finding that death threats on purely personal grounds by a customs official and destruction of Inkiriwang's property by unknown individuals were criminal acts that were not related to any protected ground. *See* 8 C.F.R. § 1208.16(b)(1)(i); *Lim v. INS*, 224 F.3d 929, 936 (9th Cir. 2000); *Donchev v. Mukasey*, 553 F.3d 1206, 1212-14 (9th Cir. 2009). Inkiriwang similarly has failed to establish that he will be persecuted or tortured upon return to Indonesia. *See* 8 C.F.R. § 208.18(a)(1); *Wakkary v. Holder*, 558 F.3d 1049, 1066-68 (9th Cir. 2009).

Inkiriwang's remaining contentions are unpersuasive.

PETITION DENIED.