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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BERNARDUS WIRASTO; et al.,</p> <p>Petitioners,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p>Respondent.</p>

No. 04-73738

Agency Nos. A96-054-849
A96-054-850
A96-054-851
A96-054-852
A96-054-853

MEMORANDUM*

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

Submitted January 10, 2011**

Before: BEEZER, TALLMAN, and CALLAHAN, Circuit Judges.

Bernardus Wirasto and his wife and sons, all natives and citizens of
Indonesia, petition for review of the Board of Immigration Appeals' ("BIA") order
dismissing their appeal from an immigration judge's ("IJ") decision denying their

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).

application for asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006), and we deny the petition for review.

Substantial evidence supports the agency’s determination that Wirasto did not establish eligibility for asylum, because the evidence does not compel the conclusion that the criminal proceedings pending against him in Indonesia constituted persecution or were motivated by his actual or imputed political opinion. *See Abedini v. U.S.*, 971 F.2d 188, 191 (9th Cir. 1992).

Substantial evidence also supports the agency’s determination that Wirasto did not establish eligibility for withholding of removal because the evidence does not distinguish the situation the petitioners potentially would face upon return to Indonesia from that experienced by all Christian Indonesians, and the petitioners have not demonstrated the requisite level of individualized risk necessary to compel a finding of a clear probability of future persecution. *See Lolong v. Gonzales*, 484 F.3d 1173, 1181 (9th Cir. 2007) (en banc); *cf. Sael v. Ashcroft*, 386 F.3d 922, 927-29 (9th Cir. 2004).

Wirasto has forfeited any challenge to the IJ's denial of CAT relief. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not supported by argument in opening brief are waived).

PETITION FOR REVIEW DENIED.