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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SAMSON WESLEY OMWENO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 09-70456

Agency No. A079-211-108

MEMORANDUM*

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

Submitted April 20, 2011**

Before: RYMER, THOMAS, and PAEZ, Circuit Judges.

Samson Wesley Omweno, a native and citizen of Kenya, petitions pro se for review of a 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, *Santos-Lemus v. Mukasey*, 542 F.3d 738, 742 (9th Cir. 2008), and we deny the petition for review.

The record does not compel the conclusion that Omweno established changed or extraordinary circumstances to excuse his untimely asylum application. *See* 8 C.F.R. § 1208.4(a), (5); *see also Husyev v. Mukasey*, 528 F.3d 1172, 1181-82 (9th Cir. 2008). Accordingly, his asylum claim fails.

As to withholding of removal, substantial evidence supports the agency's determination that Omweno failed to establish past persecution or a clear probability of persecution in Kenya based on a protected ground, including his actual or imputed political opinion, his race or ethnicity as a Kiisi, his Christian religion, or membership in a particular social group. *See Parussimova v. Mukasey*, 555 F.3d 734, 740-41 (9th Cir. 2009) (“[t]he Real ID Act requires that a protected ground represent ‘one central reason’ for an asylum applicant’s persecution”). Accordingly, his withholding of removal claim fails.

Substantial evidence supports the agency's denial of CAT protection because Omweno failed to show it is more likely than not he would be tortured upon return to Kenya. *See Sinha v. Holder*, 564 F.3d 1015, 1026 (9th Cir. 2009).

PETITION FOR REVIEW DENIED.