

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 22 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

BAMBANG EDY TRISNO PURBA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71858

Agency No. A078-020-173

MEMORANDUM*

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

Submitted June 15, 2011**

Before: CANBY, O'SCANNLAIN, and FISHER, Circuit Judges.

Bambang Edy Trisno Purba, 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 withholding of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence

* 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).

factual findings and review de novo legal determinations. *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009). We grant the petition for review, and we remand.

In evaluating the harm Purba suffered in Indonesia, the agency concluded it was more akin to harassment and discrimination than persecution. Substantial evidence does not support the agency's finding, because the repeated beatings Purba suffered during high school rose to the level of persecution. *See Duarte de Guinac v. INS*, 179 F.3d 1156, 1161-62 (9th Cir. 1999). In addition, in evaluating Purba's claim of future persecution, the agency did not have the benefit of our decisions in *Tampubolon v. Holder*, 610 F.3d 1056 (9th Cir. 2010), or *Wakkary*.

Accordingly, we grant the petition for review and remand for proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

PETITION FOR REVIEW GRANTED; REMANDED.