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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANDRIAN SUTHENO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-72327

Agency No. A098-807-364

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.

Andrian Sutheno, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). We have

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\* 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, *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009), and we deny the petition for review.

The record does not compel the conclusion that Sutheno established extraordinary circumstances to excuse his untimely asylum application. *See* 8 C.F.R. § 1208.4(a)(5); *Dhital v. Mukasey*, 532 F.3d 1044, 1050 (9th Cir. 2008). Accordingly, we deny the petition as to his asylum claim.

Substantial evidence supports the BIA's finding that Sutheno's experiences in Indonesia, including the bombing of his church, did not rise to the level of past persecution, *see Halim v. Holder*, 590 F.3d 971, 975-76 (9th Cir. 2009).

Substantial evidence also supports the BIA's finding that Sutheno failed to demonstrate a clear probability of future persecution because, even as a member of a disfavored group, he did not establish sufficient individualized risk. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1184-85 (9th Cir. 2003). Accordingly, Sutheno's withholding of removal claim fails.

Finally, substantial evidence supports the BIA's denial of CAT relief because Sutheno failed to establish it is more likely than not he will be tortured upon return to Indonesia. *See Wakkary*, 558 F.3d at 1067-68.

**PETITION FOR REVIEW DENIED.**