

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 19 2011

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

JAURAT SARDES SIANTURI;
MORRYS HARTPO SIANTURI,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-72550

Agency Nos. A078-020-258
A095-629-991

MEMORANDUM*

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

Submitted July 12, 2011**

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

Jaurat Sardes Sianturi and MorrYS Hartpo Sianturi, natives and citizens of Indonesia, petition for review of the Board of Immigration Appeals' order dismissing their appeal from an immigration judge's decision denying their application for asylum, withholding of removal, and relief under the Convention

* 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).

Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence factual findings, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006), and we deny in part and grant in part the petition for review, and we remand.

Petitioners do not challenge the agency’s dispositive finding that their applications for asylum were untimely. Petitioners also do not challenge the agency’s denial of CAT relief. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not supported by argument are deemed waived). Accordingly, petitioners’ asylum claims fail.

Substantial evidence supports the agency’s finding that the harassment and beatings petitioners suffered, even considered cumulatively, did not rise to the level of past persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003). In assessing future fear, however, the agency did not have the benefit of our opinions in *Wakkary v. Holder*, 558 F.3d 1049 (9th Cir. 2009), or *Tampubolon v. Holder*, 610 F.3d 1056 (9th Cir. 2010). Accordingly, we grant the petition with respect to petitioners’ withholding of removal claim and remand for the agency to consider it under a disfavored group analysis. *See INS v. Ventura*, 537 U.S. 12, 16 (2002) (per curiam).

Each party shall bear its own costs for this petition for review.

PETITION FOR REVIEW DENIED in part; GRANTED in part.

REMANDED.