

MAR 13 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BOBY WOWOR; et al.,
Petitioners,
v.
ERIC H. HOLDER, Jr., Attorney General,
Respondent.

No. 08-74995

Agency Nos. A095-584-634
 A095-584-635
 A072-404-299
 A072-404-300

MEMORANDUM*

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

Submitted March 6, 2012**

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Boby Wowor and his family, 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 application for asylum, withholding of removal, and protection under the Convention Against

* 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).

Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law and for substantial evidence factual findings. *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009). We deny in part, dismiss in part, and grant in part the petition for review, and we remand.

The record does not compel the conclusion petitioners established changed or extraordinary circumstances excusing their untimely asylum application. *See* 8 C.F.R. § 1208.4(a)(4), (5). Accordingly, we deny the petition as to their asylum claim.

We lack jurisdiction to address petitioners’ claim of a pattern or practice of persecution as they did not raise it to the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

However, we grant the petition with respect to petitioners’ withholding of removal and CAT claims because the BIA only considered their contention that they faced persecution in Indonesia as a result of their Christian religion and did not consider their claims in light of their contentions regarding the Indonesian Special Forces and the death of Bobby Wowor’s brother through mistaken identity. Accordingly, we remand these claims to the BIA for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

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

**PETITION FOR REVIEW DENIED in part; DISMISSED in part;
GRANTED in part; REMANDED.**