

MAR 22 2012

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

IWAN SUSANTO,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 08-74907

Agency No. A096-356-425

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.

Iwan Susanto, 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 asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). We have jurisdiction under

* 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).

8 U.S.C. § 1252. We review for substantial evidence factual findings, *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009). We deny in part and grant in part the petition for review, and we remand.

Susanto does not challenge the agency's dispositive determination that his asylum application was time-barred. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not supported by argument are deemed waived). Accordingly, his asylum claim fails.

Similarly, Susanto has not raised any argument challenging the agency's denial of his CAT claim. *See id.* Accordingly, his CAT claim also fails.

With respect to withholding of removal, substantial evidence supports the agency's finding that Susanto's experiences in Indonesia did not rise to the level of persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003). In addition, the record does not compel the conclusion that there is a pattern or practice of persecution of Chinese Buddhists in Indonesia. *See Wakkary*, 558 F.3d at 1061. However, in assessing Susanto's risk of future persecution, the agency did not have the benefit of our opinion in *Wakkary*. Accordingly, we grant the petition with respect to Susanto's withholding of removal claim, and we remand for the agency to consider it under a disfavored group analysis. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

The government shall bear the costs for this petition for review.

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