

JUL 10 2012

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HARTO PATIH PANGOLOI SIAHAAN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 09-73672

Agency No. A099-578-942

MEMORANDUM*

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

Submitted June 26, 2012**

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

Harto Patih Pangoloi Siahaan, 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

* 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).

(“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009), and we deny the petition for review.

Even if Siahaan’s asylum application was timely-filed, substantial evidence supports the BIA’s finding that Siahaan’s experiences do not rise to the level of persecution. *See Halim v. Holder*, 590 F.3d 971, 975-76 (9th Cir. 2009) (incidents of harassment did not constitute persecution). Further, we reject Siahaan’s request for remand because, even under a disfavored group analysis, the record does not compel the conclusion that Siahaan established sufficient individualized risk of harm to show a well-founded fear of persecution. *See id.* at 977-80; *see also Hakeem v. INS*, 273 F.3d 812, 816 (9th Cir. 2001). Accordingly, his asylum claim fails.

Because Siahaan did not meet the lower burden of proof for asylum, his claim for withholding of removal necessarily fails. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

Finally, substantial evidence supports the BIA’s denial of CAT relief because Siahaan failed to show it is more likely than not he will be tortured if returned to Indonesia. *See Wakkary*, 558 F.3d at 1067-68.

PETITION FOR REVIEW DENIED.