

JUL 27 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>KUI BUN THAI,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 10-70355

Agency No. A078-020-226

MEMORANDUM*

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

Submitted July 17, 2012**

Before: SCHROEDER, THOMAS, and SILVERMAN, Circuit Judges.

Kui Bun Thai, 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 ("IJ") decision denying his application for withholding of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial

* 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).

evidence factual findings and review *de novo* legal determinations. *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009). We deny the petition for review.

The record does not compel reversal of the BIA's conclusion that Thai failed to demonstrate sufficient individualized risk of harm under a disfavored group analysis to establish a clear probability of persecution. *See Halim v. Holder*, 590 F.3d 971, 979 (9th Cir. 2009) (petitioner failed to show individual risk of harm where he "failed to offer any evidence that distinguishes his exposure from those of all other ethnic Chinese Indonesians"). We reject Thai's contention that he is otherwise entitled to withholding of removal. Accordingly, Thai's withholding of removal claim fails.

Finally, Thai's argument that the BIA's analysis of his claim was improper due to its reliance on the 2003 State Department country report fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and prejudice for a petitioner to prevail on a due process claim). We reject Thai's request that the case be remanded for consideration of updated country conditions.

PETITION FOR REVIEW DENIED.