

OCT 15 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>EKA PEBRI,</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. 10-72720

Agency No. A088-121-083

MEMORANDUM\*

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

Submitted October 9, 2012\*\*

Before: RAWLINSON, MURGUIA, and WATFORD, Circuit Judges.

Eka Pebri, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing her appeal from an immigration judge’s decision denying her claim for asylum, and protection under the Convention Against Torture (“CAT”). We have jurisdiction under

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

Substantial evidence supports the agency's decision that, even under a disfavored group analysis, Pebri failed to establish sufficient individualized risk of harm to demonstrate a well-founded fear of persecution. *See Halim v. Holder*, 590 F.3d 971, 977-79 (9th Cir. 2009). The record belies Pebri's contention that the BIA found ethnic Chinese Indonesians are no longer a disfavored group.

Substantial evidence also supports the agency's denial of CAT protection because Pebri did not establish it is more likely than not she will be tortured in Indonesia. *See Wakkary*, 558 F.3d at 1067-68 (no evidence that petitioner would be tortured). In light of this conclusion, we do not address Pebri's argument that the BIA exceeded the scope of its review in analyzing government acquiesce.

**PETITION FOR REVIEW DENIED.**