

AUG 16 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANSEN FERI WIJAYA, a.k.a. Sen
Hwee Oei,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-73583

Agency No. A095-634-597

MEMORANDUM*

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

Submitted August 14, 2013**

Before: SCHROEDER, GRABER, PAEZ, Circuit Judges.

Fransen Feri Wijaya, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion to reconsider and motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the BIA’s denial

* 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).

of a motion to reopen or motion to reconsider. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

In light of our conclusions in *Wijaya v. Holder*, No. 08-70270, (9th Cir. Jan. 10, 2011), the BIA did not abuse its discretion in denying the motion to reconsider in order to apply the disfavored group analysis set forth in our decision in *Tampubolon v. Holder*, 610 F.3d 1056 (9th Cir. 2010).

The BIA also did not abuse its discretion in denying Wijaya's motion to reopen as untimely where the motion was filed over three years after the BIA's final order, *see* 8 C.F.R. § 1003.2(c)(2), and Wijaya's new evidence fails to demonstrate prima facie eligibility for relief, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010) (stating standards governing motions to reopen).

Finally, we lack jurisdiction over any challenge to the BIA's decision not to reopen sua sponte. *See Mejia-Hernandez v. Holder*, 633 F.3d 818, 823-24 (9th Cir. 2011).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.