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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ANDRE EKA SUSANTO,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 05-70919

Agency No. A78-158-398

MEMORANDUM*

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

Submitted June 18, 2008**

Before: REINHARDT, LEAVY, and W. FLETCHER, Circuit Judges.

Andre Eka Susanto, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing an appeal from an immigration judge's ("IJ") decision denying his application for asylum and

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

withholding of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency's denial of withholding of removal, *Hakeem v. INS*, 273 F.3d 812, 816 (9th Cir. 2001), and deny the petition for review.

The record does not compel the conclusion that the changed circumstances or extraordinary circumstances exceptions excused the untimely filing of Susanto's asylum application. *See Ramadan v. Gonzales*, 479 F.3d 646, 648, 657 (9th Cir. 2007).

Substantial evidence supports the IJ's denial of withholding of removal because there is no evidence that Susanto or anyone in his family has ever been charged, arrested or physically harmed on account of their ethnicity or religion. *See Hakeem*, 273 F.3d at 817. Furthermore, even assuming the disfavored group analysis set forth in *Sael v. Ashcroft*, 386 F.3d 922 (9th Cir. 2004) applies in the context of withholding of removal, Susanto has not demonstrated the requisite level of individualized risk necessary to compel a finding of a clear probability of future persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1184-85 (9th Cir. 2003); *cf. Sael*, 386 F.3d at 927-29. Lastly, the record does not establish that Susanto demonstrated a pattern or practice of persecution. *See Lolong v. Gonzales*, 484 F.3d 1173, 1181 (9th Cir. 2007) (no pattern or practice where petitioner failed to

show that all other ethnic Chinese Christians in Indonesia have a well-founded fear of future persecution). Accordingly, Susanto's withholding of removal claim fails.

PETITION FOR REVIEW DENIED.