

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 30 2008

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

NOUVA MAYA SUMENGE;
HENGRY NOTJI MENDUR,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-70911

Agency Nos. A96-364-750
A96-364-751

MEMORANDUM*

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

Submitted July 22, 2008**

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges.

Nouva Maya Sumenge and her husband, natives and citizens of Indonesia,
petition for review of the Board of Immigration Appeals' order dismissing their

* 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).

appeal from an immigration judge's ("IJ") decision denying their application for withholding of removal and protection under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. Reviewing due process claims de novo, *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000), and factual findings for substantial evidence, *Nagoulko v. INS*, 333 F.3d 1012, 1015 (9th Cir. 2003), we deny the petition for review.

Substantial evidence supports the IJ's denial of withholding of removal because Sumenge failed to establish that her experiences as a member of the Hosanna group rose to the level of persecution. *See id.* 1016-17. Further, because Sumenge was never physically harmed, and her sister remains in Indonesia unharmed, she failed to show that it is more likely than not that she will be persecuted if she returns to Indonesia. *See Hakeem v. INS*, 273 F.3d 812, 817 (9th Cir. 2001).

Substantial evidence further supports the denial of CAT relief because Sumenge did not show it is more likely than not that she will be tortured by or with the acquiescence of the government. *Cf. Zheng v. Ashcroft*, 332 F.3d 1186, 1194-95 (9th Cir. 2003).

Sumenge's due process contention fails because the proceedings were not "so fundamentally unfair that [s]he was prevented from reasonably presenting [her]

case.” *Colmenar*, 210 F.3d at 971 (internal citation omitted); *see also Almaghzar v. Gonzales*, 457 F.3d 915, 921-22 (9th Cir. 2006) (concluding that IJ did not violate petitioner’s due process rights).

PETITION FOR REVIEW DENIED.