

SEP 04 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>NO WIBOWO HO,</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>

No. 05-75316

Agency No. A95-629-772

MEMORANDUM*

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

Submitted August 26, 2008**

Before: SCHROEDER, KLEINFELD and IKUTA, Circuit Judges.

No Wibowo Ho, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for withholding of removal

* 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).

and protection under the Convention Against Torture. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence, *Nagoulko v. INS*, 333 F.3d 1012, 1015 (9th Cir. 2003), and we deny the petition for review.

Substantial evidence supports the agency's finding that Ho failed to establish a clear probability of persecution. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006). Substantial evidence also supports the agency's conclusion that the harm Ho experiences in Indonesia including the attacks on homes in his neighborhood, the destruction of his chicken egg farm and the destruction of his brother-in-law's business do not rise to the level of past persecution. *See Nagoulko*, 333 F.3d at 1016-17; *see also Gormley v. Ashcroft*, 364 F.3d 1172, 1178 (9th Cir. 2004). Furthermore, even assuming the disfavored group analysis set forth in *Sael v. Ashcroft*, 386 F.3d 922, 927-29 (9th Cir. 2004) applies to withholding of removal, Ho has not demonstrated the requisite level of individualized risk necessary to compel a finding of a clear probability of persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1184-85 (9th Cir.2003).

Substantial evidence supports the agency's conclusion that it is not more likely than not that Ho will be tortured if returned to Indonesia. *See Singh v. Gonzales*, 439 F.3d 1100, 1113 (9th Cir. 2006).

PETITION FOR REVIEW DENIED.