

MAR 26 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WELLI BUDI SANTOSO;
OLVI SUSAN LUMENTA,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-73936

Agency Nos. A95-174-596
A95-174-597

MEMORANDUM*

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

Submitted March 18, 2008**

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Welli Budi Santoso and his wife are natives and citizens of Indonesia. They
petition for review of a Board of Immigration Appeals' ("BIA") order dismissing

* 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).

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their appeal from an immigration judge's ("IJ") decision denying their claims for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). Our jurisdiction is governed by 8 U.S.C. § 1252. We dismiss in part, and deny in part.

We lack jurisdiction to review the IJ's determination that petitioners' asylum application was untimely. *See* 8 U.S.C. § 1158(a)(3); *Ramadan v. Gonzales*, 479 F.3d 646, 650 (9th Cir. 2007) (per curiam).

Substantial evidence supports the IJ's denial of withholding of removal, because the record does not compel a finding that it is more likely than not that petitioners will be persecuted on account of their religion if they return to Indonesia. *See Hakeem v. INS*, 273 F.3d 812, 816-17 (9th Cir. 2001); *see also Lolong v. Gonzales*, 484 F.3d 1173, 1179-81 (9th Cir. 2007) (en banc).

Substantial evidence further supports the denial of CAT relief, because petitioners did not show it is more likely than not that they will be tortured if they return to Indonesia. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

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Lastly, petitioners' contention that the BIA violated their right to due process by affirming the IJ's decision without opinion is foreclosed by our decision in *Falcon Carriche v. INS*, 350 F.3d 845, 850-51 (9th Cir. 2003).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.