

DEC 26 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JATHNIEL REI TANGKILISAN,</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. 06-75593

Agency No. A096-356-387

MEMORANDUM*

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

Submitted December 17, 2008**

Before: GOODWIN, WALLACE, and RYMER, Circuit Judges.

Jathniel Rei Tangkilisan, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's 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. We have jurisdiction under 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.

The record does not compel the conclusion that changed or extraordinary circumstances excused the untimely filing of Tangkilisan's asylum application. *See* 8 C.F.R. § 1208.4(a)(4), (5); *Husyev v. Mukasey*, 528 F.3d 1172, 1178-79 (9th Cir. 2008); *Ramadan v. Gonzales*, 479 F.3d 646, 656-58 (9th Cir. 2007) (*per curiam*). Accordingly, Tangkilisan's asylum claim fails.

Substantial evidence supports the BIA's finding that Tangkilisan's experiences do not constitute past persecution, *see Nagoulko* at 1016-18, and Tangkilisan has not demonstrated any basis for past persecution under *Hernandez-Ortiz v. Gonzales*, 496 F.3d 1042, 1045-46 (9th Cir. 2007). In addition, even if the disfavored group analysis set forth in *Sael v. Ashcroft*, 386 F.3d 922, 927-29 (9th Cir. 2004) applies in the context of withholding of removal, Tangkilisan failed to establish that it was more likely than not that he will be persecuted if he returns to Indonesia. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1184-85 (9th Cir. 2003). Finally, we reject Tangkilisan's contention that the BIA employed the wrong standard of review. Accordingly, Tangkilisan's claim for withholding of removal fails.

PETITION FOR REVIEW DENIED.