

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 20 2009

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

POPPIE BAWATA; SUKO KARYONO
BHAKTI; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-72125

Agency Nos. A096-360-204
A096-360-205
A096-360-206
A096-360-207
A096-360-230

MEMORANDUM*

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

Submitted January 13, 2008**

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Poppie Bawata, her husband, and their three children, natives and citizens of Indonesia, petition for review of the Board of Immigration Appeals' ("BIA") order

* 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).

dismissing their appeal from an immigration judge's ("IJ") decision denying their application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). 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 BIA affirmed the IJ's denial of Bawata's asylum application as time-barred. Bawata does not challenge this finding in her opening brief.

Substantial evidence supports the agency's denial of withholding of removal, because Bawata failed to demonstrate the harassment she suffered rose to the level of past persecution. *See id.* Furthermore, 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, Bawata did not establish that it is more likely than not that she will be persecuted if she returns to Indonesia. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1184-85 (9th Cir. 2003).

Finally, substantial evidence supports the agency's denial of CAT relief because Bawata failed to establish that it is more likely than not she will be tortured if she returns to Indonesia. *See Singh v. Ashcroft*, 351 F.3d 435, 443 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.