

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 24 2009

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

FRANSISKA ASTRI WIJAYA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-74227

Agency No. A075-736-029

MEMORANDUM*

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

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Fransiska Astri Wijaya, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's decision denying her application for asylum, withholding of

* 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).

removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. Reviewing for substantial evidence, *Hakeem v. INS*, 273 F.3d 812, 816 (9th Cir. 2001), we deny the petition for review.

The agency denied Wijaya’s asylum application as time-barred. She does not challenge this finding in her opening brief.

Substantial evidence supports the agency’s denial of withholding of removal because the harassment and discrimination Wijaya suffered did not rise to the level of persecution, *see Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003), and she did not establish a clear probability of persecution if she returns to Indonesia, even as a member of a disfavored group, *see id.* at 1184-85.

Substantial evidence also supports the agency’s denial of CAT relief because Wijaya did not 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.