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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>NIKSEN TORRY LASUT,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-71490

Agency No. A097-111-348

MEMORANDUM\*

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

Submitted April 13, 2009\*\*

Before: GRABER, GOULD, and BEA, Circuit Judges.

Niksen Torry Lasut, 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 withholding

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\* 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).

of removal. 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 in part and dismiss in part the petition for review.

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

Substantial evidence supports the agency's determination that Lasut failed to establish that he suffered past persecution. *See Nagoulko*, 333 F.3d at 1016-18. Lasut also failed to establish a clear probability of future persecution in connection with the death of his brother, *see Arriaga-Barrientos v. INS*, 937 F.2d 411, 414-15 (9th Cir. 1991), or on the basis of membership in a disfavored group even if the disfavored group analysis set forth in *Sael v. Ashcroft*, 386 F.3d 922 (9th Cir. 2004) applies to Christian Indonesians, *see Hoxha v. Ashcroft*, 319 F.3d 1179, 1184-84 (9th Cir. 2003). Accordingly, we deny Lasut's withholding of removal claim.

We lack jurisdiction to review Lasut's contentions that the IJ erred in failing to determine removability, failing to evaluate adequately Lasut's claim of persecution, and failing to consider background evidence, because Lasut did not

raise these issues before the BIA and thereby failed to exhaust his administrative remedies. *See* 8 U.S.C. § 1252(d)(1); *Barron v. Ashcroft*, 358 F.3d 674, 677 (9th Cir. 2004).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**