

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 14 2014

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

SIN MUI TJHIN,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-72337

Agency No. A097-369-290

ORDER

Before: WARDLAW and FISHER, Circuit Judges, and DAWSON, District Judge.*

The memorandum disposition filed June 5, 2014, is amended as follows.

After the first full paragraph on page 2, insert the following new paragraph:

Because the BIA's decision rested on its conclusion that the harm suffered by Tjhin did not rise to the level of persecution, there was no need for the BIA to address her argument regarding the nexus of her harm to a protected ground. *See Baghdasaryan v. Holder*, 592 F.3d 1018, 1023 (9th Cir. 2010) ("An applicant alleging past persecution has the burden of establishing that (1) [her] treatment rises to the level of persecution, (2) the persecution was on account of one or more protected grounds; *and* (3) the persecution was committed by the government, or by forces that the government was unable or unwilling to control." (emphasis added)).

* The Honorable Kent J. Dawson, District Judge for the U.S. District Court for the District of Nevada, sitting by designation.

With the disposition thus amended, the panel has unanimously voted to deny the petition for rehearing. Judge Wardlaw has voted to deny the petition for rehearing en banc, and Judges Fisher and Dawson have recommended denial.

The full court has been advised of the petition for rehearing en banc. No active judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

The petition for rehearing and rehearing en banc is DENIED. No future petitions for rehearing or petitions for rehearing en banc will be entertained.

IT IS SO ORDERED.