

SEP 14 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

APRILEXIUS LAHIBORE  
MAKAHAUBE,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-71492

Agency No. A095-630-002

MEMORANDUM\*

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

Submitted September 10, 2012\*\*

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Aprilexius Lahibore Makahaube, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reconsider. We have jurisdiction under 8 U.S.C. § 1252. We review for

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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 concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

an abuse of discretion the BIA's denial of a motion to reconsider, *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002), and we deny the petition for review.

Makahaube contends the BIA abused its discretion in denying his motion because he established eligibility for withholding of removal under a disfavored group analysis. We reject Makahaube's argument in light of our prior decision, *Makahaube v. Holder*, No. 06-70340, 2009 WL 794670 (9th Cir. Mar. 26, 2009), in which this court applied the disfavored group analysis to Makahaube's withholding of removal claim and rejected his claim.

Makahaube also contends the BIA should have granted his motion to reconsider in light of *Mufied v. Mukasey*, 508 F.3d 88 (2d Cir. 2007), in which the Second Circuit remanded for the BIA to consider in the first instance the petitioner's argument that Indonesian Christians faced a pattern or practice of persecution. The BIA did not abuse its discretion in concluding this out-of-circuit decision did not have any bearing on Makahaube's case.

**PETITION FOR REVIEW DENIED.**