

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 07-1750

Adrianus Marulitua,	*	
	*	
Petitioner,	*	
	*	Petition for Review
v.	*	of an Order of the
	*	Board of Immigration Appeals.
Eric H. Holder, Jr., ¹ Attorney General,	*	
	*	[UNPUBLISHED]
Respondent.	*	

Submitted: March 2, 2009
Filed: March 5, 2009

Before RILEY, SMITH, and BENTON, Circuit Judges.

PER CURIAM.

Indonesian citizen Adrianus Marulitua petitions for review of an order of the Board of Immigration Appeals affirming an Immigration Judge's denial of withholding of removal and relief under the Convention Against Torture (CAT).²

¹Eric H. Holder, Jr., has been appointed to serve as Attorney General of the United States, and is substituted as respondent pursuant to Federal Rule of Appellate Procedure 43(c).

²Marulitua's related asylum application was denied as untimely, and is not before us for review.

After careful review of the record, we conclude the denial of withholding of removal and CAT relief is supported by substantial evidence in the record. See Ming Ming Wijono v. Gonzales, 439 F.3d 868, 872, 874 (8th Cir. 2006) (standard of review); Menjivar v. Gonzales, 416 F.3d 918, 921 (8th Cir. 2005) (persecution requires harm either by government or by persons government is unable or unwilling to control). Marulitua now argues that the IJ erred by not considering his claim under a pattern-or-practice-of-persecution theory, but this issue is not properly before us because Marulitua did not raise it before the BIA.³ See Ateka v. Ashcroft, 384 F.3d 954, 957 (8th Cir. 2004) (if petitioner fails to raise issue in appeal to BIA, petitioner has not exhausted administrative remedies with respect to it).

Accordingly, we deny the petition.

³Moreover, we have rejected similar claims by Indonesian Chinese Christians. See, e.g. Tolego v. Gonzales, 452 F.3d 763, 766-67 (8th Cir. 2006); Ming Ming Wijono, 439 F.3d at 873-74.