

SEP 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JESUS OLIDER MELGAR-VENTURA,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 07-70212

Agency No. A095-122-409

MEMORANDUM*

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

Submitted September 14, 2009**

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Jesus Olider Melgar-Ventura, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for

* 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).

protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008), and we deny the petition for review.

Substantial evidence supports the IJ’s denial of CAT relief because Melgar-Ventura failed to establish that it is more likely than not that he would be tortured if he returned to El Salvador. *See id.* at 1073.

We reject Melgar-Ventura’s contention that the IJ erred by failing to address his request for voluntary departure in her opinion and minute order, because the BIA concluded that he was statutorily ineligible for such relief. *See Garrovillas v. INS*, 156 F.3d 1010, 1013 (9th Cir. 1998) (any error committed by the IJ may be rendered harmless by the BIA’s application of the correct legal standard).

PETITION FOR REVIEW DENIED.