

DEC 16 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MOHAMED JAMELEDDINE JEMAIL,</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. 07-70093

Agency No. A078-466-100

MEMORANDUM*

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

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Mohamed Jameleddine Jemail, a native and citizen of Tunisia, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s decision denying his application for asylum and withholding

* 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. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Prasad v. INS*, 47 F.3d 336, 338-39 (9th Cir. 1995), and we deny the petition for review.

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

Substantial evidence supports the agency's determination that Jemail failed to establish past persecution because the harms he suffered did not rise to the level of persecution. *See Prasad*, 47 F.3d at 339-40. Substantial evidence further supports the agency's finding that Jemail failed to establish a clear probability of future persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1185 (9th Cir. 2003) (denying withholding of removal despite evidence of abuse against ethnic Albanians, where petitioner failed to establish an appreciably higher risk of persecution than other Albanians). Accordingly, we deny the petition with respect to the withholding of removal claim.

PETITION FOR REVIEW DENIED.