

DEC 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CARLOS FILADELFO ALVARADO,
a.k.a. Carlos Alvarado Anaya,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 08-70797

Agency No. A095-022-857

MEMORANDUM*

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

Submitted December 15, 2009**

Before: GOODWIN, WALLACE, and CLIFTON, Circuit Judges.

Carlos Filadelfo Alvarado, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order affirming an immigration judge's decision denying his application for withholding of removal and protection

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

under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law, *Cerezo v. Mukasey*, 512 F.3d 1163, 1166 (9th Cir. 2008), except to the extent that deference is owed to the BIA’s determination of the governing statutes and regulations, *Simeonov v. Ashcroft*, 371 F.3d 532, 535 (9th Cir. 2004). We review factual findings for substantial evidence. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006). We deny the petition for review.

We reject Alvarado’s claim that he is eligible for withholding of removal based on his membership in a particular social group, namely, small business owners in El Salvador who fear being harmed by gangs if they report them to police. *See Ochoa v. Gonzales*, 406 F.3d 1166, 1170 (9th Cir. 2005) (rejecting as a particular social group “business owners in Colombia who rejected demands by narco-traffickers to participate in illegal activity”); *Santos-Lemus v. Mukasey*, 542 F.3d 738, 745-46 (9th Cir. 2008) (rejecting as a particular social group “young men in El Salvador resisting gang violence”) (internal quotation omitted).

Accordingly, because Alvarado failed to demonstrate that he was persecuted on account of a protected ground, we deny the petition as to his withholding of removal claim. *See Barrios v. Holder*, 581 F.3d 849, 856 (9th Cir. 2009).

Substantial evidence supports the agency's denial of CAT relief because Alvarado did not establish a likelihood of torture by, at the instigation of, or with the consent or acquiescence of the El Salvadoran government. *See Zheng v. Ashcroft*, 332 F.3d 1186, 1194 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.