

DEC 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CARLOS FILADELFO ALVARADO, a.k.a. Carlos Alvarado Anaya,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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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.