

DEC 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CARLOS MENDOZA ESPIRITU;
ARACELI ESPIRITU,

Petitioners,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 05-76926

Agency Nos. A071-625-801

A071-625-802

MEMORANDUM*

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

Submitted December 15, 2009**

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

Carlos Mendoza Espiritu and his wife, both natives and citizens of the Philippines, petition for review of the Board of Immigration Appeals' order summarily affirming an immigration judge's ("IJ") decision denying their

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

application for withholding of removal. 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. *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n.1 (1992). We deny the petition for review.

The IJ denied withholding of removal because he found that the New People's Army threatened petitioners for either criminal or commercial reasons. Substantial evidence supports the IJ's denial of relief because the petitioners did not show they were or would be persecuted in the Philippines on account of a protected ground. *See id.* at 483-84. Accordingly, petitioners' withholding of removal claim fails. *See Ochoa v. Gonzales*, 406 F.3d 1166, 1170-72 (9th Cir. 2005) (affirming BIA's denial of asylum and withholding of removal where petitioners failed to prove their persecution was on account membership in a particular social group or imputed political opinion).

PETITION FOR REVIEW DENIED.