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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICARDO ANTONIO RODRIGUEZ-
AMAYA,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 08-73133

Agency No. A099-473-211

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.

* 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).

Ricardo Antonio Rodriguez-Amaya, a native and citizen of El Salvador, petitions pro se for review of the Board of Immigration Appeals dismissal of his appeal from the immigration judge's denial of his application for asylum.

Petitioner contends that he was persecuted due to his refusal to be recruited by gangs in El Salvador, and contends that he should have been granted asylum. The IJ and the BIA both concluded that Rodriguez-Amaya failed to file a timely application for asylum, and he did not challenge this conclusion before the agency. We lack jurisdiction to consider the merits of petitioner's asylum claim because Rodriguez-Amaya failed to allege that his asylum application was timely, or that an exception to the timeliness requirement applied. When a petitioner fails to exhaust a claim, the issue is waived. *See* 8 U.S.C. § 1252(d); *Rojas Garcia v. Ashcroft*, 339 F.3d 814, 819 (9th Cir. 2003). Petitioner raises no issues before this court concerning the IJ's and BIA's denial of his applications for withholding of removal or relief under the Convention Against Torture. Petitioner, therefore, fails to raise any issues properly before this court.

PETITION FOR REVIEW DISMISSED.