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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE LOPEZ-ENRIQUE,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 08-72250

Agency No. A098-570-584

MEMORANDUM*

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

Submitted January 11, 2010**

Before: BEEZER, TROTT, and BYBEE, Circuit Judges.

Jose Lopez-Enrique, a native and citizen of El Salvador, petitions for review of a Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of

* 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).

removal, and protection 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.

Substantial evidence supports the BIA’s finding that Lopez failed to establish past persecution on account of a protected ground. *See Gormley v. Ashcroft*, 364 F.3d 1172, 1177 (9th Cir. 2004) (“Random, isolated criminal acts ... do not establish persecution”). We reject Lopez’ claim that he is eligible for asylum and withholding of removal based on membership in a particular social group, namely, young El Salvadoran males retaliated against for refusing to join gangs, or on account of his anti-gang political opinion. *See 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); *Barrios v. Holder*, 581 F.3d 849, 855-56 (9th Cir. 2009) (refusal to join a gang does not amount to a political opinion).

Accordingly, because Lopez-Enrique failed to demonstrate that he was persecuted or fears persecution on account of a protected ground, we deny the petition as to the asylum and withholding of removal claims. *See Barrios*, 581 F.3d at 856.

Substantial evidence supports the BIA's denial of CAT relief because Lopez-Enrique failed to show it is more likely than not that he would be tortured if returned to El Salvador. *See Santos-Lemus*, 542 F.3d at 747-48.

Lopez-Enrique's due process contention regarding the BIA's issuance of a streamlined decision is not supported by the record.

PETITION FOR REVIEW DENIED.