

JAN 21 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE ANTONIO DEL CID-  
MAZARIEGOS,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-74470

Agency No. A098-113-305

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 Antonio Del Cid-Mazariegos, a native and citizen of Guatemala,  
petitions pro se for review of the Board of Immigration Appeals order dismissing  
his appeal from an immigration judge's decision denying his application for

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\* 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).

asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 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 in part and dismiss in part the petition for review.

We reject Del Cid-Mazariegos’ claim that he is eligible for asylum and withholding of removal based on his membership in a particular social group, namely, Guatemalan males who refuse to join gangs, or based on 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, 854-56 (9th Cir. 2009) (refusal to join a gang does not amount to political opinion.)

Accordingly, because Del Cid-Mazariegos failed to demonstrate that he was persecuted on account of a protected ground, we deny the petition as to his asylum and withholding of removal claims. *See id.* at 856.

We lack jurisdiction to consider Del Cid-Mazariegos' CAT claim because he did not exhaust it before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**