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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ALEJANDRO GARCIA BENITEZ, a.k.a Pedro Raul Martinez,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 07-73866

Agency No. A073-445-638

MEMORANDUM*

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

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Alejandro Garcia Benitez, a native and citizen of Mexico, petitions for review of a Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for asylum,

* 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).

withholding of removal, and relief 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.

The opening brief does not challenge the agency’s finding that Garcia-Benitez’s asylum application was time-barred.

We reject Garcia-Benitez’s contention that he was persecuted on account of his membership in a protected class. *See Arteaga v. Mukasey*, 511 F.3d 940, 945-46 (9th Cir. 2007); *see also Sanchez-Trujillo v. INS*, 801 F.2d 1571, 1573, 1576-77 (9th Cir. 1986). Furthermore, substantial evidence supports the IJ’s findings that Garcia-Benitez failed to provide an objective basis for future fear of persecution, *see Fakhry v. Mukasey*, 524 F.3d 1057, 1065-66 (9th Cir. 2008), and that Garcia-Benitez could relocate within Mexico, *see* 8 C.F.R. § 208.13(b)(3)(i) (in the absence of past persecution, petitioner bears the burden of showing that internal relocation is unreasonable).

Because there is no evidence that he would be tortured by or with the acquiescence of a government official, Garcia-Benitez has not demonstrated his eligibility for CAT relief. *See Silaya v. Mukasey*, 524 F.3d 1066, 1073 (9th Cir. 2008).

PETITION FOR REVIEW DENIED.