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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JULIO CESAR HERNANDEZ,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 03-70273

Agency No. A071-577-188

MEMORANDUM*

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

Submitted March 16, 2010**

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

Julio Cesar Hernandez, a native and citizen of Guatemala, petitions pro se for review of the Board of Immigration Appeals' order summarily affirming an immigration judge's ("IJ") decision denying his application for asylum and

* 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. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006), and we deny the petition for review.

Substantial evidence supports the IJ's conclusion that, even if credible, Hernandez failed to meet his burden of demonstrating asylum eligibility because the record does not compel the conclusion that the threats Hernandez received amounted to harm rising to the level of past persecution, *see Lim v. INS*, 224 F.3d 929, 936 (9th Cir. 2000), or that he established an objectively reasonable fear of future persecution, *see Halim v. Holder*, 590 F.3d 971, 977 (9th Cir. 2009). Accordingly, his asylum claim fails.

Because Hernandez failed to establish eligibility for asylum, it necessarily follows that he failed to meet the more stringent standard for withholding of removal. *See Zehatye*, 453 F.3d at 1190.

Hernandez's contention that the IJ's alleged bias violated due process fails because he did not demonstrate prejudice. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring prejudice for a petitioner to prevail on a due process claim).

PETITION FOR REVIEW DENIED.