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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIO RENE DISCUA-CASTILLO,
a.k.a. Mario Castillo,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-74312

Agency No. A076-705-532

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.

Mario Rene Discua-Castillo, a native and citizen of Honduras, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's 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 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 record does not compel the conclusion that Discua-Castillo established extraordinary circumstances excusing the untimely filing of his asylum application. *See* 8 C.F.R. § 1208.4(a)(5); *Ramadan v. Gonzales*, 479 F.3d 646, 650 (9th Cir. 2007) (per curiam). Accordingly, Discua-Castillo's asylum claim fails. In addition, we reject Discua-Castillo's contention that the BIA's determination violated due process. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for due process violation).

We reject Discua-Castillo's claim that he is eligible for withholding of removal on account of his anti-gang political opinion, or based on his membership in a particular social group, namely Hondurans actively opposed to gangs. *See Santos-Lemus v. Mukasey*, 542 F.3d 738, 745-47 (9th Cir. 2008). In addition, substantial evidence supports the BIA's finding that Discua-Castillo failed to

establish gang members targeted him and his family on account of their familial relationship. *See INS v. Elias-Zacarias*, 502 U.S. 478, 482-84 (1992).

Accordingly, because Discua-Castillo failed to demonstrate that he was persecuted or that he fears persecution on account of a protected ground, we deny the petition as to his withholding of removal claim. *See Santos-Lemus*, 542 F.3d at 748.

PETITION FOR REVIEW DENIED.