

APR 19 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MANUEL BANOS RIVERA,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-73133

Agency No. A096-151-056

MEMORANDUM*

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

Submitted April 5, 2010**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Manuel Banos Rivera, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' 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 relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence factual findings, and we review de novo the agency’s legal determinations. *See Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009). We deny the petition for review.

Substantial evidence supports the agency’s finding that Banos Rivera did not establish that he was or would be persecuted on account of any protected ground, in light of his testimony that his brother’s murder was likely based on envy or a commercial dispute, and that he never discovered who was responsible for the murder. *See Ochave v. INS*, 254 F.3d 859, 865 (9th Cir. 2001). Accordingly, we deny the petition as to Banos Rivera’s asylum and withholding of removal claims.

We also deny the petition as to Banos Rivera’s CAT claim because substantial evidence supports the agency’s finding that Banos Rivera failed to demonstrate it is more likely than not he will be tortured upon return to Mexico. *See Wakkary*, 558 F.3d at 1067-68.

PETITION FOR REVIEW DENIED.