

FILED

JUN 10 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NAIMIDII BINDERIYA,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 08-71195

Agency No. A096-149-800

MEMORANDUM *

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

Submitted February 2, 2010**

Seattle, Washington

Before: W. FLETCHER and RAWLINSON, Circuit Judges, and MOSMAN,^{***}
District Judge.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Michael W. Mosman, United States District Judge for District of Oregon sitting by designation.

Naimdii Binderiya petitions for review of the denial of asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”) by the Board of Immigration Appeals (“BIA”).

Substantial evidence supports the BIA’s conclusion that Binderiya did not establish a well-founded fear of persecution. Binderiya experienced past harassment in Mongolia as a result of a lesbian relationship. Substantial evidence supports the conclusion that the harassment was not sufficiently severe to constitute persecution. Even assuming, for the purposes of argument, that the harassment Binderiya described was extreme enough to constitute persecution, Binderiya was targeted as a result of her relationship with a specific woman. The specific relationship that led to the harassment ended voluntarily some time ago, and the person with whom Binderiya was in that relationship is no longer in Mongolia. In light of these facts, substantial evidence in the record supports the conclusion that the harassment is unlikely to reoccur. The evidence in the record does not compel the finding that lesbians generally are subject to persecution in Mongolia.

Because the evidence is insufficient to establish a well-founded fear of persecution, it is also insufficient to establish the higher standards for withholding of removal and CAT relief.

Petition **DENIED.**