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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FRANCISCA SOFIA CANO-JOHNSON,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 05-71028

Agency No. A078-278-692

MEMORANDUM*

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

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Francisca Sofia Cano-Johnson, a native and citizen of Honduras, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order dismissing her appeal from an immigration judge’s (“IJ”) decision denying her application for asylum, withholding of removal, and relief under the Convention Against Torture

* 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).

(“CAT”). Our jurisdiction is governed by 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 in part and dismiss in part the petition for review.

The record does not compel the conclusion that changed or extraordinary circumstances excused the untimely filing of Cano-Johnson’s asylum application. *See* 8 C.F.R. §§ 1208.4(a)(4), (5); *Ramadan v. Gonzales*, 479 F.3d 646, 656-58 (9th Cir. 2007).

Substantial evidence supports the denial of withholding of removal because Cano-Johnson did not demonstrate she was or would be subjected to persecution by gang members or police on account of a protected ground. *See Santos-Lemus*, 542 F.3d at 746-47; *Bolshakov v. INS*, 133 F.3d 1279, 1281 (9th Cir. 1998) (criminal street gang activity does not establish persecution on account of a protected ground).

Substantial evidence supports the denial of CAT relief because Cano-Johnson failed to present evidence that it is more likely than not she will be

tortured by or with the consent or acquiescence of Honduran government officials.

See Soriano v. Holder, 569 F.3d 1162, 1167 (9th Cir. 2009).

We lack jurisdiction to review Cano-Johnson's contention that the IJ failed to consider the death of her mother and siblings because she did not raise this claim before the IJ or BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.