

SEP 24 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANCISCO ANTONIO VARGAS-  
RAMIREZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71197

Agency No. A094-456-502

MEMORANDUM\*

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

Submitted September 13, 2010\*\*

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Francisco Antonio Vargas-Ramirez, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for asylum, withholding of removal, and protection under the

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\* 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).

Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence factual findings. *See Santos-Lemus v. Mukasey*, 542 F.3d 738, 742 (9th Cir. 2008). We dismiss in part and deny in part the petition for review.

Because Vargas-Ramirez failed to exhaust any challenge to the IJ’s determination that he is ineligible for asylum due to an aggravated felony conviction, *see Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004), we dismiss the petition as to Vargas-Ramirez’s asylum claim.

Substantial evidence supports the agency’s finding that Vargas-Ramirez failed to demonstrate past persecution based upon visits to the family home by unknown persons. *See Lim v. INS*, 224 F.3d 929, 936 (9th Cir. 2000). In the opening brief, Vargas-Ramirez fails to argue that he can otherwise demonstrate a clear probability of future persecution. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not raised and argued in a party’s opening brief are waived). Accordingly, Vargas-Ramirez’s withholding of removal claim fails.

Vargas-Ramirez fails to raise any substantive arguments with respect to the agency’s denial of CAT relief. *See id.*

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**