

SEP 24 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROZA KHACHATUROVA; SEVAK PAPANYAN,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 09-70045

Agency Nos. A098-469-175
A099-044-495

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.

Roza Khachaturova, a native of Azerbaijan and citizen of Armenia, and Sevak Papanyan, a native and citizen of Armenia, petition for review of the Board of Immigration Appeals' order dismissing their appeal from an immigration judge's decision denying their applications for asylum, withholding of removal,

* 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).

and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence factual findings. *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009). We deny the petition for review.

The record does not compel the conclusion that the threat Khachaturova received from police in 2000, or the interrogation and mistreatment she received by police in 2004, even considered cumulatively, rise to the level of persecution. *Prasad v. INS*, 47 F.3d 336, 340 (9th Cir. 1995). Accordingly, substantial evidence supports the agency’s past persecution finding. *See id.*; *Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003) (“Although [petitioner’s] experiences are disturbing and regrettable, they do not evince actions so severe as to compel a finding of past persecution.”). Substantial evidence also supports the agency’s finding that petitioners have failed to show a well-founded fear of future persecution. *See Nagoulko v. INS*, 333 F.3d 1012, 1016-18 (9th Cir. 2003).

Because Khachaturova failed to establish eligibility for asylum, it necessarily follows that she cannot meet the more stringent standard for withholding of removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

Finally, substantial evidence supports the agency's denial of CAT relief because Khachaturova failed to show it is more likely than not that she would be tortured if removed to Indonesia. *See Wakkary*, 558 F.3d at 1067-68.

We decline to review materials that are not part of the administrative record. *See Fisher v. INS*, 79 F.3d 955, 963 (9th Cir. 1996) (en banc).

PETITION FOR REVIEW DENIED.