

SEP 28 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARIA MAGDALENA GARCIA-LEIVA,</p> <p style="text-align: center;">Petitioner,</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. 09-71732

Agency No. A099-533-234

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.

Maria Magdalena Garcia-Leiva, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's decision denying her application for asylum, withholding of removal, and protection 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”). We have jurisdiction under 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 the petition for review.

We reject Garcia-Leiva’s contention that she is eligible for asylum and withholding of removal based upon political opinion. *See Santos-Lemus v. Mukasey*, 542 F.3d 738, 747 (9th Cir. 2008) (denying relief where the “available evidence suggests . . . that Santos-Lemus was victimized for economic and personal reasons”); *see also Parussimova v. Mukasey*, 555 F.3d 734, 740 (9th Cir. 2009) (“[t]he Real ID Act requires that a protected ground represent ‘one central reason’ for an asylum applicant’s persecution”). We also reject Garcia-Leiva’s contention that she is eligible for asylum and withholding of removal based upon her membership in a particular social group comprised of government witnesses against Mara gangs in El Salvador who have been violently attacked, scarred, and threatened. *See Velasco-Cervantes v. Holder*, 593 F.3d 975, 978 (9th Cir. 2010) (rejecting as a particular social group “former material witnesses for the

government”). Accordingly, we deny the petition for review as to Garcia-Leiva’s asylum and withholding of removal claims.

Substantial evidence supports the BIA’s finding that Garcia-Leiva failed to demonstrate it is more likely than not she would be tortured by or at the instigation of or with the consent or acquiescence of a public official if returned to El Salvador, and therefore we deny the petition as to Garcia-Leiva’s CAT claim. *See Santos-Lemus*, 542 F.3d at 747-48.

PETITION FOR REVIEW DENIED.