

OCT 22 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSE LUIS ROSALES CARTAGENA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 09-73597

Agency No. A070-460-868

MEMORANDUM*

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

Submitted October 19, 2010**
San Francisco, California

Before: O’SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Jose Luis Rosales Cartegena, a native and citizen of El Salvador, petitions for review of the decision of the Board of Immigration Appeals which dismissed his appeal from the immigration judge’s denial of his applications for asylum and 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).

We reject Rosales Cartegena’s claim that he is eligible for asylum based on his membership in a particular social group, namely persons who suffer persecution due to gang activity, arising from his fear of gangs if he refuses to be recruited into gangs; and the El Salvador government’s inability to control gangs. *See Santos-Lemus v. Mukasey*, 542 F.3d 738, 745-46 (9th Cir. 2008) (rejecting as a social group “young men in El Salvador resisting gang violence”). We also reject Rosales Cartegena’s political opinion claim based on his resistance to the gangs. *See INS v. Elias-Zacarias*, 502 U.S. 478, 482-84 (1992) (resisting forced recruitment does not necessarily constitute persecution on account of political opinion); *Barrios v. Holder*, 581 F.3d 849, 854-56 (9th Cir. 2009) (resistance to gang recruitment does not constitute political opinion). Because Rosales Cartegena failed to demonstrate that he was persecuted on account of a protected ground, we uphold the agency’s denial of his withholding of removal claim. *Id.* at 856.

PETITION FOR REVIEW DENIED.