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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LUIS ENRIQUE GARCIA-PENA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 08-70165

Agency No. A078-911-767

MEMORANDUM\*

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

Submitted November 16, 2010\*\*

Before: TASHIMA, BERZON, and CLIFTON, Circuit Judges.

Luis Enrique Garcia-Pena, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from the immigration judge’s (“IJ”) decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture

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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).

(“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence factual findings. *Barrios v. Holder*, 581 F.3d 849, 854 (9th Cir. 2009).

We deny the petition for review.

We decline to consider the evidence petitioner attached to his opening brief because our review is limited to the administrative record upon which the order of removal is based. *See* 8 U.S.C. § 1252(b)(4)(A); *Fisher v. INS*, 79 F.3d 955, 963 (9th Cir. 1996) (en banc).

Substantial evidence supports the agency’s determination that Garcia-Pena failed to establish the demands for money and threats from gang members he experienced were on account of a protected ground. *See Barrios*, 581 F.3d at 856 (the petitioner failed to establish a political or ideological opposition to gangs or that the gang imputed any particular belief to him, and evidence supported the conclusion the gang victimized him for economic and personal reasons).

Accordingly, because Garcia-Pena failed to demonstrate he was persecuted or fears persecution on account of a protected ground, we deny the petition as to his asylum and withholding of removal claims. *See id.*; *Ochave v. INS*, 254 F.3d 859, 865 (9th Cir. 2001) (“Asylum generally is not available to victims of civil strife, unless they are singled out on account of a protected ground.”).

Garcia-Pena fails to raise any substantive challenge to the denial of his CAT claim. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not addressed in the argument portion of a brief are deemed waived).

**PETITION FOR REVIEW DENIED.**