

DEC 22 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MAYRA CAROLINA GARCIA, aka
Sabrina Michelle Garcia; et al.,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-70729

Agency Nos. A098-953-391
A098-953-392
A098-953-393

MEMORANDUM*

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

Submitted December 14, 2010**

Before: GOODWIN, WALLACE and THOMAS, Circuit Judges.

Petitioner Mayra Carolina Garcia and her daughters, Vivian Marcela Rivera Garcia and Katherine Vanessa Rodriguez Garcia, natives and citizens of El Salvador , petition for review of a Board of Immigration Appeals order dismissing their appeal from an immigration judge’s (IJ) decision denying their application for

* 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).

asylum, withholding of removal and protection under the Convention Against Torture (CAT). We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for review.

Petitioners contend the Board denied them due process by failing to address a country report supporting their claim that women and children are mistreated in El Salvador. There is no clear evidence to rebut the presumption that the Board considered the evidence in the record. *See Kohli v. Gonzales*, 473 F.3d 1061, 1068 (9th Cir. 2007). Regardless, the Board denied relief based on a failure to establish a nexus to a protected ground, and the country report is not relevant to that determination.

We decline to address petitioner's unexhausted contention that the IJ did not comply with 8 C.F.R. § 1208.11 by failing to send a copy of the asylum application to the Department of State for review. *Ontiveros-Lopez v. INS*, 213 F.3d 1121, 1124 (9th Cir. 2000) (declining to consider a claim that Board did not have first opportunity to consider).

PETITION FOR REVIEW DENIED.