

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MISAK GAVAZYAN; et al.,</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>

No. 07-72234

Agency Nos. A079-245-070
A079-245-071
A079-245-072

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.

Misak Gavazyan and his family, natives of the former Soviet Union and citizens of Armenia, petition for review of the Board of Immigration Appeals' ("BIA") order dismissing their appeal from an immigration judge's decision denying their application for asylum, withholding of removal, and protection under

* 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, we therefore deny Gavazyan's request for oral argument. *See Fed. R. App. P. 34(a)(2).*

the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006), and we deny the petition for review.

Substantial evidence supports the BIA’s determination that lead petitioner Gavazyan did not suffer past persecution based on the murder of acquaintances in the government or based on his sister’s injuries, because these harms were not part of a pattern of persecution closely tied to Gavazyan. *See Wakkary v. Holder*, 558 F.3d 1049, 1060 (9th Cir. 2009). Substantial evidence also supports that BIA’s determination that Gavazyan’s 1992 detention and interrogation, *see Prasad v. INS*, 47 F.3d 336, 339-40 (9th Cir. 1995) (minor abuse during brief detention did not compel finding of past persecution), and the loss of his business did not rise to the level of past persecution, *see Zehatye*, 453 F.3d at 1186 (confiscation of family business not past persecution). Further, substantial evidence supports the BIA’s conclusion that Gavazyan failed to establish his father’s death, his 1999 abduction or his son’s arrest were on account of a protected ground. *See INS v. Elias-Zacarias*, 502 U.S. 478, 483-84 (1992). Petitioners’ request for humanitarian asylum fails because they did not establish past persecution. *See* 8 C.F.R. § 1208.13(b)(1)(iii).

In addition, substantial evidence supports the BIA's determination that petitioners failed to establish a well-founded fear of future persecution. *See Molina-Estrada v. INS*, 293 F.3d 1089, 1096 (9th Cir. 2002) (where there is no presumption of a well-founded fear of future persecution, country conditions reports are relevant evidence of whether such a fear is objectively reasonable). Accordingly, petitioners' asylum claim fails.

Because petitioners failed to meet the lower burden of proof for asylum, it follows that they have not met the higher standard for withholding of removal. *See Zehatye*, 453 F.3d at 1190.

Finally, substantial evidence supports the BIA's denial of CAT relief because petitioners failed to establish it is more likely than not that they will be tortured if returned to Armenia. *See Wakkary*, 558 F.3d at 1067-68.

PETITION FOR REVIEW DENIED.