

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SUROJ KUMAR DANGOL,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-70151

Agency No. A098-816-380

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.

Suroj Kumar Dangol, a native and citizen of Nepal, petitions for review of an order of the Board of Immigration Appeals (“BIA”) affirming the Immigration

* 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).

Judge's ("IJ") denial of his application for asylum,¹ withholding of removal,² and Convention Against Torture ("CAT") relief.³ We have jurisdiction under 8 U.S.C. § 1252. We deny the petition.

The BIA's findings of fact are reviewed for substantial evidence. *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n.1, 112 S. Ct. 812, 815 n.1, 117 L. Ed. 2d 38 (1992). Where the BIA does not provide reasoning to support its conclusion, we "look to the IJ's oral decision as a guide to what lay behind the BIA's conclusion." *Avetova-Elisseva v. INS*, 213 F.3d 1192, 1197 (9th Cir. 2000). "To reverse the BIA's finding that [the petitioner] did not demonstrate a nexus between the harm [he] suffered and a protected ground, the evidence must 'not only support that conclusion, but compel it.'" *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008) (quoting *Elias-Zacarias*, 502 U.S. at 481 n. 1, 112 S. Ct. at 815). Denial of relief under CAT is also reviewed for substantial evidence. *Silaya*, 524 F.3d at 1070.

To establish asylum, an alien must show that either past persecution or a well founded fear of future persecution "on account of race, religion, nationality,

¹ 18 U.S.C. § 1158.

² 8 U.S.C. § 1231(b)(3).

³ United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted Dec. 10, 1984, S. Treaty Doc. No. 100-20 (1988), 1465 U.N.T.S. 85 (implemented at 8 C.F.R. § 208.18).

membership in a particular social group, or political opinion.” *See Gu v. Gonzales*, 454 F.3d 1014, 1019 (9th Cir. 2006) (citing 8 U.S.C. § 1101(a)(42)(A)). Dangol has not met his burden. He did present evidence that Maoist rebels attempted to forcibly recruit him through threats and attacks, but has presented no evidence that these actions were on account of any actual or imputed political opinion. *See Sangha v. INS*, 103 F.3d 1482, 1490-91 (9th Cir. 1997) (citing *Elias-Zacarias*, 502 U.S. at 482-83, 112 S. Ct. at 815-816); *see also Ochave v. INS*, 254 F.3d 859, 865 (9th Cir. 2001).

Because the BIA determined that Dangol did not meet the requirements for a grant of asylum, it properly determined that he also did not meet the requirements for withholding of removal. *See Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010).

Finally, there is no evidence in the record that would compel a determination that it is more likely than not that Dangol would be tortured if he returned to Nepal. Thus, he is not entitled to CAT relief. *See Santos-Lemus v. Mukasey*, 542 F.3d 738, 748 (9th Cir. 2008); *Hasan v. Ashcroft*, 380 F.3d 1114, 1123 (9th Cir. 2004).

Dangol’s motion to stay proceedings is denied as moot.

PETITION DENIED.