

JAN 19 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BABA KABA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-70605

Agency No. A095-408-629

MEMORANDUM*

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

Submitted January 10, 2011**

Before: BEEZER, TALLMAN, and CALLAHAN, Circuit Judges.

Baba Kaba, a native and citizen of Sierra Leone, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction

* 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).

under 8 U.S.C. § 1252. “This court reviews factual determinations, including credibility determinations, for substantial evidence.” *Morgan v. Mukasey*, 529 F.3d 1202, 1206 (9th Cir. 2008). We deny the petition for review.

Substantial evidence supports the IJ’s determination that circumstances in Sierra Leone have fundamentally changed such that Kaba does not have a well-founded fear of future persecution. *See* 8 C.F.R. § 1208.13(b)(1); *Sowe v. Mukasey*, 538 F.3d 1281, 1285–87 (9th Cir. 2008). Accordingly, we deny the petition as to Kaba’s asylum claim.

Because Kaba failed to establish eligibility for asylum, he necessarily cannot demonstrate eligibility for withholding of removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

Finally, substantial evidence also supports the IJ’s determination that Kaba failed to establish that it is more likely than not that he will be tortured by or with the acquiescence of government officials if returned to Sierra Leone. *See Wakkary v. Holder*, 558 F.3d 1049, 1068 (9th Cir. 2009). We therefore deny the petition as to his CAT claim.

PETITION FOR REVIEW DENIED.