

JAN 21 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MOUNIR EL HAMM GAAD EL RAB,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-70727

Agency No. A095-634-533

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.

Mounir El Hamm Gaad El Rab, a native and citizen of Egypt, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his applications for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence factual findings. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006). We deny the petition for review.

The record does not compel the conclusion that Gaad El Rab established changed or extraordinary circumstances excusing his late filing. *See* 8 C.F.R. § 1208.4(a)(4), (5). Accordingly, we deny the petition as to Gaad El Rab's asylum claim.

The discrimination Gaad El Rab experienced as a Coptic businessman in Egypt and the events surrounding his daughter's kidnaping do not compel the conclusion that he suffered past persecution or that it is more likely than not that he will suffer future persecution on account of a protected ground. *See* 8 U.S.C. § 1231(b)(3)(A); *Hoxha v. Ashcroft*, 319 F.3d 1179, 1182, 1184-85 (9th Cir. 2003). Accordingly, substantial evidence supports the agency's denial of withholding of removal.

Finally, substantial evidence supports the agency's denial of CAT relief because Gaad El Rab failed to establish it is more likely than not that he would be tortured if returned to Egypt. *See Wakkary v. Holder*, 558 F.3d 1049, 1068 (9th Cir. 2009).

PETITION FOR REVIEW DENIED.