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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE PEDRO HUEZO-DIAZ, a.k.a. Jose
Pedro Rolando Huezo-Diaz,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-74018

Agency No. A099-476-593

MEMORANDUM*

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

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ and M. SMITH, Circuit Judges.

Jose Pedro Huezo-Diaz, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture

* 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).

(“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law, *Cerezo v. Mukasey*, 512 F.3d 1163, 1166 (9th Cir. 2008), except to the extent that deference is owed to the BIA’s determination of the governing statutes and regulations, *Simeonov v. Ashcroft*, 371 F.3d 532, 535 (9th Cir. 2004). 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.

In his opening brief, Huezo-Diaz fails to challenge the agency’s dispositive determination that his asylum application was untimely, and fails to raise any substantive challenge to the agency’s denial of his CAT claim. *See Ghahremani v. Gonzales*, 498 F.3d 993, 997-8 (9th Cir. 2007) (issues not raised and argued in the opening brief are deemed waived).

We reject Huezo-Diaz’s claim that he is eligible for withholding of removal based on his membership in a particular social group. *See Santos-Lemus v. Mukasey*, 542 F.3d 738, 745-46 (9th Cir. 2008) (rejecting as a particular social group “young men in El Salvador resisting gang violence”); *Barrios v. Holder*, 581 F.3d 849, 855-56 (9th Cir. 2009) (rejecting as a particular social group “young males in Guatemala who are targeted for gang recruitment but refuse because they disagree with the gang’s criminal activities”). We also reject Huezo-Diaz’s claim that he is eligible for withholding of removal based on his political opinion

expressed by refusing to join a gang. *See Barrios*, 581 F.3d 849, 853 (rejecting as a political opinion “refusal to join a gang”). Accordingly, because Huevo-Diaz failed to demonstrate that he was persecuted or fears persecution on account of a protected ground, we deny the petition as to his withholding of removal claim. *See Barrios*, 581 F.3d 849, 856.

PETITION FOR REVIEW DENIED.