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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MANUEL DE JESUS LUE-MARTINEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 09-71968

Agency No. A099-526-564

MEMORANDUM*

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

Submitted March 8, 2011**

Before: FARRIS, LEAVY and BYBEE , Circuit Judges.

Manuel de Jesus Lue-Martinez, a native and citizen of El Salvador, petitions for review of a Board of Immigration Appeals order dismissing his appeal from an immigration judge’s decision denying his application for asylum, withholding of

* 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).

removal and protection under the Convention Against Torture (CAT). We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for review.

Substantial evidence supports the Board's denial of asylum and withholding of removal because the unfulfilled, anonymous threats to Lue-Martinez did not rise to the level of past persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003) (holding unfulfilled threats and an incident of physical violence did not establish past persecution). Likewise, the evidence does not compel the conclusion that Lue-Martinez established a well-founded fear of future persecution. *See Khourassany v. INS*, 208 F.3d 1096, 1101 (9th Cir. 2000) (holding similarly situated, unharmed family members undermine future fear); *Nahrvani v. Gonzales*, 399 F.3d 1148, 1154 (9th Cir. 2005) (holding future fear is speculative if petitioner fails to show government is unable or unwilling to protect him).

Because Lue-Martinez has not "specifically and distinctly argued and raised" the issue of CAT relief, he has waived that claim. *Arpin v. Santa Clara Valley Transp. Agency*, 261 F.3d 912, 919 (9th Cir. 2001); *Castro-Perez v. Gonzales*, 409 F.3d 1069, 1072 (9th Cir. 2005).

PETITION FOR REVIEW DENIED.