

MAR 28 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GERSON NORBERTO ORDONEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-73991

Agency No. A070-954-436

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.

Petitioner Gerson Norberto Ordonez, a native and citizen of Guatemala, petitions for review of a Board of Immigration Appeals order dismissing his appeal from an immigration judge's decision denying application for asylum and

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\* 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).

withholding of removal.<sup>1</sup> Our jurisdiction is governed by 8 U.S.C. § 1252. We deny in part and dismiss in part the petition for review.

Substantial evidence supports the Board's denial of asylum and withholding of removal because Ordonez failed to establish that guerrillas threatened him on account of a protected ground. *See Elias-Zacarias*, 502 U.S. 478, 482-83 (1992) (holding that forced recruitment alone is not enough to show persecution on account of political opinion).

We decline to address Ordonez's unexhausted contention that he is eligible for a grant of humanitarian asylum. 8 U.S.C. § 1252(d); *Ontiveros-Lopez v. INS*, 213 F.3d 1121, 1124 (9th Cir. 2000) (declining to consider a claim that Board did not have first opportunity to consider).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**

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<sup>1</sup> Petitioner does not challenge the denial of his applications for protection under the Convention Against Torture or cancellation of removal.