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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRODY HERMINIO ACEVEDO-
GUDIEL; HERMINIO ANTONIO
ACEVEDO-PEREZ,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-74861

Agency Nos. A097-340-345
A070-076-043

MEMORANDUM*

HERMINIO ANTONIO ACEVEDO-
PEREZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-71496

Agency No. A070-076-043

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

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Submitted May 24, 2011**

Before: PREGERSON, THOMAS, and PAEZ, Circuit Judges.

Frody Herminio Acevedo-Gudiel and Herminio Antonio Acevedo-Perez, natives and citizens of Guatemala, petition for review of the Board of Immigration Appeals' ("BIA") order dismissing their appeal from an immigration judge's decision denying their applications for asylum and withholding of removal. We have 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 in part and grant in part the petition for review as to Acevedo-Gudiel, and we remand his claims to the BIA for further proceedings. By separate order, we open a new petition for review as to Acevedo-Perez and transfer his claims to that separate petition for review.

Substantial evidence supports the agency's conclusion that Acevedo-Gudiel did not suffer past persecution based on his mistreatment, including threats, by gang members. *See Lim*, 224 F.3d at 936-37. As Acevedo-Gudiel has not established past persecution, he is not entitled to a presumption of future persecution. *See* 8 C.F.R. § 1208.13(b)(1); *Molina-Estrada*, 293 F.3d at 1096.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

With respect to future persecution, the agency did not consider Acevedo-Gudiel's claim based on his imputed political opinion. *See Sagaydak v. Gonzales*, 403 F.3d 1035, 1040 (9th Cir. 2005) (agency may not ignore arguments raised by a petitioner). Accordingly, we deny in part and grant in part the petition for review as to Acevedo-Gudiel, A097-340-345, and remand his asylum and withholding of removal claims for further proceedings. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

By separate order filed concurrently with this disposition, we have opened a new petition for review as to Herminio Antonio Acevedo-Perez, A070-076-043, and transferred his claims to that petition: No. 11-71496.

The docket is closed as to No. 08-74861.

Each party shall bear its own costs for this petition for review.

**PETITION FOR REVIEW DENIED in part; GRANTED in part;
REMANDED.**