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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HAO TUAN DIEP,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 08-73114

Agency No. A071-436-055

MEMORANDUM\*

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

Submitted June 15, 2011\*\*

Before: CANBY, O’SANNLAIN, and FISHER, Circuit Judges.

Hao Tuan Diep, a native and citizen of Vietnam, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s decision denying his application for protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We

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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).

review for substantial evidence, *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008), and we deny the petition for review.

Diep did not testify to having experienced any physical harm in Vietnam. After release from prison, his father, a former officer in the South Vietnamese army, remained in Vietnam for eight years without incident. Neither his brother nor his mother experienced any harm during their visits to Vietnam. Substantial evidence supports the agency's denial of CAT protection because Diep failed to establish it is more likely than not he will be tortured if he returns to Vietnam. *See Santos-Lemus v. Mukasey*, 542 F.3d 738, 747-48 (9th Cir. 2008).

**PETITION FOR REVIEW DENIED.**