

DEC 27 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FREDDY MARTIN DAVILA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 10-71805

Agency No. A078-054-504

MEMORANDUM\*

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

Submitted December 9, 2011\*\*  
Pasadena, California

Before: PREGERSON and PAEZ, Circuit Judges, and JONES, District Judge.\*\*\*

Freddy Martin Davila, a legal permanent resident of the United States and native and citizen of Nicaragua, petitions for review of the Board of Immigration

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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).

\*\*\* The Honorable James P. Jones, District Judge for the U.S. District Court for Western Virginia, sitting by designation.

Appeals' ("BIA") order rejecting his claim for protection under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law and for substantial evidence findings of fact. *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009). We grant the petition for review and remand.

We remand to the BIA because we cannot conduct a meaningful review of the BIA's decision on the issue of whether the Nicaraguan government acquiesces in acts of torture, where the BIA failed to provide a reasoned explanation of its decision. *See Movsisian v. Ashcroft*, 395 F.3d 1095, 1098 (9th Cir. 2005) ("We have long held that the BIA abuses its discretion when it fails to provide a reasoned explanation for its actions."). Davila asserts that the BIA failed to provide a "reasoned explanation" for denying his claim under the theory that the Nicaraguan government acquiesces in torture.<sup>1</sup> The BIA denied Davila's CAT claim by issuing a general statement unsupported by any reasoning that Nicaragua does not consent to torture. *See Sagaydak v. Gonzales*, 405 F.3d 1035, 1040 (9th Cir. 2005) ("[T]he BIA [is] not free to ignore arguments raised by a [party]."). We therefore instruct the BIA on remand to provide a reasoned explanation for its decision on Davila's CAT claim.

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<sup>1</sup> The government failed to respond to this argument.

We grant the petition for review, and remand to the BIA to provide a reasoned explanation for its decision on Davila's CAT claim.

Petition **GRANTED; REMANDED** for further proceedings.