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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WALTER ALEXANDER HERNANDEZ-
MARTINEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-73236

Agency No. A200-051-727

MEMORANDUM*

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

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Walter Alexander Hernandez-Martinez, a native and citizen of El Salvador, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for

* 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).

asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence factual findings, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006), and we review de novo claims of due process violations in immigration proceedings, *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000). We deny in part and dismiss in part the petition for review.

Hernandez-Martinez fears persecution from gang members because he was a police officer in El Salvador. Substantial evidence supports the agency’s determination that Hernandez-Martinez failed to establish the government would be unable or unwilling to protect him. *See Castro-Perez v. Gonzales*, 409 F.3d 1069, 1072 (9th Cir. 2005). Accordingly, Hernandez-Martinez’s asylum and withholding of removal claims fail.

Substantial evidence also supports the agency’s denial of CAT relief because Hernandez-Martinez failed to establish it is more likely than not he would be tortured at the instigation or with the acquiescence of the Salvadoran government. *See Silaya v. Mukasey*, 524 F.3d 1066, 1073 (9th Cir. 2008). We reject Hernandez-Martinez’s contentions that the BIA applied the wrong standard and inadequately analyzed his CAT claim. *See Lopez v. Ashcroft*, 366 F.3d 799, 807 n.6 (9th Cir.

2004) (agency “does not have to write an exegesis on every contention”) (internal quotation marks and citation omitted).

Finally, we lack jurisdiction to review Hernandez-Martinez’s due process contention concerning the hearing transcript because he did not raise this issue to the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.