

SEP 17 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DOMINGO CARRILLO CHAVARRIA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 11-70106

Agency No. A071-632-867

MEMORANDUM*

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

Submitted September 10, 2012**

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Domingo Carrillo Chavarria, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s decision denying his applications for asylum, withholding of removal, cancellation of removal, and special rule cancellation of

* 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).

removal under the Nicaraguan Adjustment and Central American Relief Act (“NACARA”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, including adverse credibility determinations. *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001). We deny in part and dismiss in part the petition for review.

Substantial evidence supports the agency’s adverse credibility finding based on inconsistencies between Carrillo Chavarria’s testimony and applications regarding the death of two of his brothers in Guatemala, which he was unable to adequately explain. *See id.* at 1043 (inconsistencies relating to the basis for petitioner’s fear of persecution went to the heart of the claim and supported the adverse credibility finding). Carrillo Chavarria’s contention that he received faulty interpretation is not supported by the record.

In the absence of credible testimony, Carrillo Chavarria’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

We lack jurisdiction to review the BIA’s determination that Carrillo Chavarria is not eligible for NACARA relief. *See Ixcot v. Holder*, 646 F.3d 1202, 1213-14 (9th Cir. 2011).

We lack jurisdiction to review the agency's discretionary determination that Carrillo Chavarria failed to show the requisite hardship for cancellation of removal. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005). Carrillo Chavarria's contention that the agency applied an incorrect legal standard in considering his hardship claim is not supported by the record.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.