

OCT 15 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MISSAK KARABET KAVLAKIAN,
a.k.a. Kolakian,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-70745

Agency No. A078-440-592

MEMORANDUM*

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

Submitted October 9, 2012**

Before: RAWLINSON, MURGUIA, and WATFORD, Circuit Judges.

Missak Karabet Kavlakian, a native and citizen of Lebanon, 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 asylum, withholding

* 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).

of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Singh v. INS*, 134 F.3d 962, 966 (9th Cir. 1998), and we deny the petition for review.

Substantial evidence supports the agency’s finding that Kavlakian failed to demonstrate changed or extraordinary circumstances sufficient to excuse the delay in filing his asylum application. *See* 8 C.F.R. §§ 1208.4(a)(4), (5). Accordingly, we deny the petition as to Kavlakian’s asylum claim.

The agency found Kavlakian failed to establish who shot at him or for what purpose, and the three visits from alleged Hezbollah members did not result in threats or harm. Substantial evidence supports the agency’s denial of withholding of removal because Kavlakian did not establish past persecution, *see Singh*, 134 F.3d at 967 (petitioner’s experiences must rise to the level of persecution and have occurred because of a protected ground), or a clear probability of future persecution, *see Belayneh v. INS*, 213 F.3d 488, 491 (9th Cir. 2000) (petitioner did not establish a reasonable fear of future persecution on account of a protected ground); *Nagoulko v. INS*, 333 F.3d 1012, 1018 (9th Cir. 2003) (possibility of future persecution too speculative).

Substantial evidence also supports the agency's denial of CAT relief because Kavlakian failed to establish he more likely than not will be tortured if returned to Lebanon. *See Nahrvani v. Gonzales*, 399 F.3d 1148, 1154 (9th Cir. 2005).

Finally, we reject Kavlakian's arguments regarding credibility because the agency did not make an adverse credibility finding.

PETITION FOR REVIEW DENIED.