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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ELADIO ROSALES-RODRIGUEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 10-70287

Agency No. A071-590-580

MEMORANDUM*

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

Submitted November 13, 2012**

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Eladio Rosales-Rodriguez, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s decision denying his application for asylum and withholding of removal. We have jurisdiction under 8 U.S.C. § 1252. We review 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).

substantial evidence the agency's factual findings, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006), and we deny the petition for review.

Substantial evidence supports the agency's finding that, even if credible, Rosales-Rodriguez failed to demonstrate that the harm he and his family suffered from the army, guerrillas, and unknown assailants was on account of a protected ground. *See INS v. Elias-Zacarias*, 502 U.S. 478, 483 (1992) (some evidence of a persecutor's motive – direct or circumstantial – must be provided to establish eligibility for asylum); *Molina-Estrada v. INS*, 293 F.3d 1089, 1094-95 (9th Cir. 2002) (evidence did not compel conclusion that guerillas attacked family on account of a protected ground); *Alonzo v. INS*, 915 F.2d 546, 548 (9th Cir. 1990) (conscriptio attempts by military not persecution absent indication that military knew of applicant's religious or political beliefs). Substantial evidence also supports the agency's finding that Rosales-Rodriguez failed to establish an objectively reasonable well-founded fear of future persecution in Guatemala. *See Molina-Estrada*, 293 F.3d at 1095-96 (petitioner failed to demonstrate a reasonable fear of future persecution). Accordingly, Rosales-Rodriguez 's asylum claim fails.

Because Rosales-Rodriguez did not meet the lower burden of proof for asylum, his withholding of removal claim necessarily fails. *See Zehatye*, 453 F.3d at 1190.

PETITION FOR REVIEW DENIED.