

JAN 24 2013

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ISAAC AMOS ZACARIAS,

Petitioner,

v.

ERIC H. HOLDER, JR., Attorney General,

Respondent.

No. 08-72334

Agency No. A070-866-109

MEMORANDUM*

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

Submitted January 15, 2013**
San Francisco, California

Before: TASHIMA, GRABER, and FISHER, Circuit Judges.

Isaac Amos Zacarias petitions for review of the immigration judge's rejection, affirmed by the Board of Immigration Appeals, of his application for asylum, withholding of removal, and relief from removal under the Convention

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2)(C).

Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252(a)(1), and deny Zacarias’ petition for review.

1. While there is some record evidence to support Zacarias’ claim that he is eligible for asylum, nothing in the record compels the conclusion that he was persecuted on account of a protected ground, because it is not clear that those who mistreated him actually imputed to him a political opinion or persecuted him on account of any opinion, imputed or otherwise. *See Sangha v. INS*, 103 F.3d 1482 (9th Cir. 1997) (discussing and applying *INS v. Elias-Zacarias*, 502 U.S. 478 (1992)).

2. Given that he fails to demonstrate eligibility for asylum, Zacarias necessarily also fails to satisfy the more stringent standard for withholding of removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

3. Nor does the record compel the finding that it is more likely than not that Zacarias will be tortured if he is removed to Guatemala, *see Ahmed v. Keisler*, 504 F.3d 1183, 1200-01 (9th Cir. 2007), or that the Guatemalan government would “turn a blind eye” to any torture in Zacarias’ case, *see Ornelas-Chavez v. Gonzales*, 458 F.3d 1052, 1059 (9th Cir. 2006) (internal quotation marks omitted).

Accordingly, Zacarias has failed to establish that he is eligible for relief from removal under CAT.

4. Finally, we lack jurisdiction to review the IJ's discretionary denial of Zacarias' request for voluntary departure. 8 U.S.C. § 1229c(f); *see also Gil v. Holder*, 651 F.3d 1000, 1006 (9th Cir. 2011). Thus, this portion of Zacarias' petition must be dismissed.

PETITION DENIED in part and DISMISSED in part.