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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MOHAMED KAMARA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 10-72403

Agency No. A097-113-011

MEMORANDUM*

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

Submitted March 12, 2013**

Before: PREGERSON, REINHARDT, and W. FLETCHER, Circuit Judges.

Mohamed Kamara, a native and citizen of Sierra Leone, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an Immigration Judge’s (“IJ”) decision denying his applications for asylum and withholding of removal. We have jurisdiction under 8 U.S.C. § 1252. We

* 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).

review the agency's factual findings for substantial evidence. *See Hanna v. Keisler*, 506 F.3d 933, 937 (9th Cir. 2007). We deny in part and grant in part the petition for review, and we remand.

Substantial evidence supports the agency's determination that the government rebutted the presumption that Kamara has a well-founded fear of persecution if he is returned to Sierra Leone. *See Sowe v. Mukasey*, 538 F.3d 1281, 1285-87 (9th Cir. 2008) (evidence of fundamental changes in Sierra Leone rebutted the presumption of a well-founded fear of future persecution).

Substantial evidence also supports the agency's determination that Kamara failed to establish eligibility for humanitarian asylum under 8 C.F.R. § 1208.13(b)(iii)(A) based on the severity of past persecution. *See Vongsakdy v. INS*, 171 F.3d 1203, 1205 (9th Cir. 1999) (humanitarian relief based on severity of past harm is reserved for cases of "atrocious" persecution). However, substantial evidence does not support the agency's finding that Kamara failed to establish "that there is a reasonable possibility that [he] . . . may suffer other serious harm upon removal" to Sierra Leone. *See* 8 C.F.R. § 1208.13(b)(iii)(B). We remand to the BIA to consider whether to grant Kamara humanitarian relief as a matter of discretion.

Finally, since the government rebutted the well-founded fear of future persecution, Kamara's withholding of removal claim fails. *See Sowe*, 538 F.3d at 1288.

Each party shall bear its own costs for this petition for review.

**PETITION FOR REVIEW GRANTED in part; DENIED in part; and
REMANDED.**