

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

MAY 24 2013

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

JUDEE MONSCA CRUZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-73168

Agency No. A095-724-546

MEMORANDUM\*

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

Submitted February 26, 2013\*\*

Before: HUG, FARRIS, and LEAVY, Circuit Judges.

Judee Monsca Cruz, a native and citizen of the Philippines, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's decision denying her application for withholding of removal and for relief under the Convention Against Torture ("CAT"). We have

---

\* 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).

jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence. *Zhou v. Gonzales*, 437 F.3d 860, 864 (9th Cir. 2006). We deny the petition for review.<sup>1</sup>

Substantial evidence supports the agency's determination that Cruz was ineligible for withholding of removal because she failed to establish either past persecution or an independent showing of a clear probability of future persecution in the Philippines. *See* 8 U.S.C. § 1231(b)(3); 8 C.F.R. § 1208.16(b); *Tamang v. Holder*, 598 F.3d 1083, 1091 (9th Cir. 2010); *see also Santos–Lemus v. Mukasey*, 542 F.3d 738, 742-44 (9th Cir. 2008) (recognizing that safety of similarly situated family member is substantial evidence that there is not a basis for fearing persecution).

Substantial evidence also supports the agency's denial of CAT relief because Cruz failed to show that it is more likely than not that she will be tortured by or with the consent or acquiescence of government officials if she is removed to the Philippines. *See Santos–Lemus*, 542 F.3d at 747-48.

**PETITION FOR REVIEW DENIED.**

---

<sup>1</sup> Because the parties are familiar with the facts and procedural history underlying this appeal, we do not recount them here.