

AUG 20 2013

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>LUIS ALBERTO MORALES MILLIAN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p> |
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No. 09-71986

Agency No. A075-586-170

MEMORANDUM*

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

Submitted August 1, 2013**

Before: GRABER, WARDLAW, and PAEZ, Circuit Judges.

Luis Alberto Morales Millian, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") May 29, 2009, order and seeks to challenge the BIA's July 3, 2007, decision denying his application 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).

asylum, withholding of removal, and relief under the Convention Against Torture. We have jurisdiction under 8 U.S.C. § 1252, and we deny the petition for review.

The BIA's procedure in this case was not unfair because Petitioner had the opportunity, but did not take it, to seek review of the BIA's denial of his application for asylum in 2007. *See Pinto v. Holder*, 648 F.3d 976, 986 (9th Cir. 2011); *Castrejon-Garcia v. INS*, 60 F.3d 1359, 1361 (9th Cir. 1995). Therefore, there was no denial of due process.

Even if the process was somehow defective, Petitioner suffered no prejudice because he had no plausible claim for relief. *See Ramirez-Perez v. Ashcroft*, 336 F.3d 1001, 1006 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.