

OCT 21 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CESAR ELVIN AMAYA RAMOS,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-73121

Agency No. A92-487-835

MEMORANDUM*

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

Argued and Submitted October 9, 2013
Pasadena, California

Before: PAEZ and HURWITZ, Circuit Judges, and ERICKSON, Chief District
Judge.**

Cesar Elvin Amaya Ramos, a native of El Salvador, petitions for review of a
Board of Immigration Appeals (BIA) order denying his appeal from the decision of

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

** The Honorable Ralph R. Erickson, Chief District Judge for the U.S.
District Court for the District of North Dakota, sitting by designation.

an Immigration Judge (IJ) denying his application for relief under the Convention Against Torture (CAT). Because the IJ applied an improper standard in determining Amaya's application for CAT relief, we grant the petition and remand for further proceedings.

To qualify for CAT relief, a petitioner must establish that "it is more likely than not that he or she would be tortured if removed to the proposed country of removal." 8 C.F.R. § 208.16(c)(2); *Cole v. Holder*, 659 F.3d 762, 770 (9th Cir. 2011) (internal quotation marks and citation omitted). The inquiry focuses on the particular petitioner, not on a hypothetical person being removed. In denying Amaya's petition for relief, the IJ stated that to establish a claim for relief under the CAT Amaya needed to prove that of the 38,000 people deported to El Salvador, "19,001 persons would have to have been tortured." This reasoning clearly misstates the appropriate legal standard. By requiring Amaya to prove that fifty percent of all deportees are tortured, the IJ improperly heightened Amaya's burden of proof under the CAT.

PETITION FOR REVIEW GRANTED; REMANDED.