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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LUIS MATIAS-GARCIA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 11-72021

Agency No. A070-963-378

MEMORANDUM*

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

Submitted November 19, 2013**

Before: CANBY, TROTT, and THOMAS, Circuit Judges.

Luis Matias-Garcia, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s decision denying his application for asylum and withholding of removal. We have jurisdiction under 8 U.S.C. § 1252. We review 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).

substantial evidence the agency's factual findings. *Gonzales-Hernandez v. Ashcroft*, 336 F.3d 995, 998 (9th Cir. 2003). We deny the petition for review.

The agency found that Matias-Garcia suffered past persecution, but his presumption of a well-founded fear of future persecution based on his actual or imputed political opinion was rebutted by evidence in the record of changed country conditions. Substantial evidence supports the agency's determination. *See Gonzales-Hernandez*, 336 F.3d at 998-99. Substantial evidence also supports the agency's determination that Matias-Garcia does not have a well-founded fear of persecution on account of his status as an indigenous person. *See Ghaly v. INS*, 58 F.3d 1425, 1431 (9th Cir. 1995) (evidence of discrimination insufficient to show well-founded fear of persecution).

Because Matias-Garcia has not established eligibility for asylum, he necessarily cannot meet the more stringent standard for withholding of removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

PETITION FOR REVIEW DENIED.