

MAY 28 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

KULBHUSHAN KUMAR,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 13-70459

Agency No. A072-143-183

MEMORANDUM*

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

Submitted May 13, 2014**

Before: CLIFTON, BEA, and WATFORD, Circuit Judges.

Kulbhushan Kumar, a native and citizen of India, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal of the 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. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006). We deny the petition for review.

The BIA found Kumar failed to establish the Indian government was unable or unwilling to control the Sikh terrorists he feared, or that the government would be unable or unwilling to protect him in the future. Substantial evidence supports the agency's finding. *See Castro-Martinez v. Holder*, 674 F.3d 1073, 1080-82 (9th Cir. 2011) (substantial evidence supported BIA conclusion that petitioner did not meet his burden to show government was unable or unwilling to control attackers); *see also Nahrvani v. Gonzales*, 399 F.3d 1148, 1154 (9th Cir. 2005) (record did not compel conclusion that the government was unable or unwilling to control the perpetrators of the harm). Thus, Kumar's asylum claim fails.

Because Kumar did not establish eligibility for asylum, it follows that he did not satisfy the more stringent standard for withholding of removal. *See Zehatye*, 453 F.3d at 1190.

PETITION FOR REVIEW DENIED.