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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOEL GUADALUPE INDA-ULLOA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 12-74226

Agency No. A089-111-603

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.

Joel Guadalupe Inda-Ulloa, a native and citizen of Mexico, 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 factual findings, *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009), and we deny the petition for review.

Even if Inda-Ulloa established changed circumstances to excuse his untimely asylum application, substantial evidence supports the agency's finding that his past experiences in Mexico, including being called derogatory names related to sexual orientation, did not rise to the level of persecution. *See Halaim v. INS*, 358 F.3d 1128, 1132 (9th Cir. 2004) (discrimination does not constitute persecution).

Further, substantial evidence supports the agency's finding that Inda-Ulloa failed to demonstrate a well founded fear of future persecution in Mexico based on either his homosexuality or his mental disability. *See Nagoulko v. INS*, 333 F.3d 1012, 1016-18 (9th Cir. 2003) (fear of future harm is too speculative). Thus, Inda-Ulloa's asylum claim fails.

Because Inda-Ulloa failed to establish eligibility for asylum, his withholding of removal claim necessarily fails. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

PETITION FOR REVIEW DENIED.