

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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

FREDY GAMAS LOPEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-73228

Agency No. A089-294-649

MEMORANDUM*

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

Submitted October 14, 2014**

Before: LEAVY, GOULD, and BERZON, Circuit Judges.

Fredy Gamas Lopez, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from the immigration judge's decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency's factual findings. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006). We deny in part and grant in part the petition for review, and we remand.

Substantial evidence supports the denial of Gamas Lopez's CAT claim because Gamas Lopez failed to establish it is more likely than not he would be tortured by or with the consent or acquiescence of the Guatemalan government. *See Silaya v. Mukasey*, 524 F.3d 1066, 1073 (9th Cir. 2008). Thus, we deny the petition for review as to Gamas Lopez's CAT claim.

The record compels the conclusion, however, that Gamas Lopez established his political neutrality was a central reason for the harms he suffered and fears. *See Sangha v. INS*, 103 F.3d 1482, 1488 (9th Cir. 1997) (an applicant may establish a political opinion by establishing political neutrality "in an environment in which political neutrality is fraught with hazard"); *see also Hu v. Holder*, 652 F.3d 1011, 1017-19 (9th Cir. 2011) (record compelled the conclusion that petitioner established one central reason for persecution was a protected ground). Thus, we grant the petition for review as to Gamas Lopez's asylum and withholding of removal claims, and we remand this case to the agency for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

Each party shall bear its own costs for this petition for review.

**PETITION FOR REVIEW DENIED in part; GRANTED in part;
REMANDED.**