

JUL 31 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION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

NOE DE JESUS LOPEZ, AKA Noel
Lopez,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-72800

Agency No. A088-666-220

MEMORANDUM*

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

Submitted July 21, 2015**

Before: CANBY, BEA, and MURGUIA, Circuit Judges.

Noe De Jesus Lopez, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for 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, *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008), and we deny the petition for review.

Substantial evidence supports the agency's determination that Lopez failed to establish the government is unable or unwilling to control the individuals he fears. *See Nahrvani v. Gonzales*, 399 F.3d 1148, 1154 (9th Cir. 2005) (record did not compel finding petitioner faced persecution by forces the government was unwilling or unable to control); *see also Truong v. Holder*, 613 F.3d 938, 941-42 (9th Cir. 2010) (per curiam) (same). Thus, Lopez's withholding of removal claim fails.

Substantial evidence also supports the agency's denial of Lopez's CAT claim because he failed to establish it is more likely than not that he would be tortured by or with the consent or acquiescence of the government if returned to El Salvador. *See Silaya*, 524 F.3d at 1073.

Finally, we reject Lopez's request to remand for the potential exercise of prosecutorial discretion, and we lack jurisdiction to direct respondent to consider an exercise of prosecutorial discretion, *see Vilchiz-Soto v. Holder*, 688 F.3d 642, 644 (9th Cir. 2012) (order).

PETITION FOR REVIEW DENIED.