

NOV 24 2015

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

NOT FOR PUBLICATION  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

ZSOLT MELAN,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-71863

Agency No. A095-806-193

MEMORANDUM\*

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

Submitted November 18, 2015\*\*

Before: TASHIMA, OWENS, and FRIEDLAND, Circuit Judges.

Zsolt Melan, a native and citizen of Romania, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction under

---

\* 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).

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 review de novo due process claims, *Zetino v. Holder*, 622 F.3d 1007, 1011-12 (9th Cir. 2010). We deny the petition for review.

We deny Melan's pending motion to submit new evidence, and do not consider the materials attached to his motion. *See Fisher v. INS*, 79 F.3d 955, 963-64 (9th Cir. 1996) (en banc) (the court's review is limited to the administrative record).

Melan does not challenge the agency's determination that his asylum application was untimely, and that he failed to show any changed or extraordinary circumstances to excuse the delay. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996).

As to withholding of removal, substantial evidence supports the agency's determination that Melan's experiences in Romania did not rise to the level of persecution. *See Nahrvani v. Gonzales*, 399 F.3d 1148, 1153-54 (9th Cir. 2005). Substantial evidence also supports the agency's determination that Melan failed to show it is more likely than not he would be persecuted on account of a protected ground. *See Parussimova v. Mukasey*, 555 F.3d 734, 740-41 (9th Cir. 2009) (protected ground must be "at least one central reason" for persecution). We reject

Melan's contention that the agency failed to consider evidence. Thus, Melan's withholding of removal claim fails.

Substantial evidence also supports the agency's denial of Melan's CAT claim, because Melan failed to demonstrate it is more likely than not he would be tortured by or with the consent or acquiescence of a public official in Romania.

*See Silaya*, 524 F.3d at 1073.

Finally, we reject Melan's due process claim. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring prejudice to prevail on a due process claim).

**PETITION FOR REVIEW DENIED.**