

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 22 2016

FOR THE NINTH CIRCUIT

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

LUIS ALONSO PENA RIVAS,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-73245

Agency No. A094-448-458

MEMORANDUM*

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

Submitted June 14, 2016**

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

Luis Alonso Pena Rivas, a native and citizen of El Salvador, petitions pro se 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

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 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, *Nagoulko v. INS*, 333 F.3d 1012, 1015 (9th Cir. 2003), and we deny the petition for review.

The record does not compel the conclusion that Pena Rivas established changed or extraordinary circumstances to excuse the untimely filing of his asylum application. *See* 8 C.F.R. §§ 1208.4(a)(4), (5). Thus, we deny the petition as to his asylum claim.

Substantial evidence supports the agency's determination that Pena Rivas' experiences in El Salvador did not rise to the level of persecution, *see Nagoulko*, 333 F.3d at 1016-17; *see also Lim v. INS*, 224 F.3d 929, 936 (9th Cir. 2000) (finding unfulfilled threats generally do not constitute past persecution), and that he did not establish that future persecution is more likely than not to occur in El Salvador, *see* 8 C.F.R. § 1208.16(b)(3)(i); *Hakeem v. INS*, 273 F.3d 812, 816 (9th Cir. 2001), *superseded by statute on other grounds*. Thus, his withholding of removal claim fails.

Finally, substantial evidence supports the agency's denial of Pena Rivas' CAT claim because he failed to demonstrate it is more likely than not he would be tortured by or with the consent or acquiescence of the government or other public

official if returned to El Salvador. *See Silaya v. Mukasey*, 524 F.3d 1066, 1073
(9th Cir. 2008).

PETITION FOR REVIEW DENIED.