

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 24 2016

FOR THE NINTH CIRCUIT

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

SERGIO JACOBO,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-73232

Agency No. A206-407-614

MEMORANDUM*

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

Submitted August 16, 2016**

Before: O'SCANNLAIN, LEAVY, and CLIFTON, Circuit Judges.

Sergio Jacobo, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for deferral of removal under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C.

* 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).

§ 1252. We review for substantial evidence the agency’s factual findings, *Garcia-Milian v. Holder*, 755 F.3d 1026, 1031 (9th Cir. 2014), and review de novo due process claims, *Zetino v. Holder*, 622 F.3d 1007, 1011 (9th Cir. 2010). We deny the petition for review.

Substantial evidence supports the BIA’s conclusion that Jacobo failed to establish it is more likely than not he would be tortured by or with the consent or acquiesce of a public official or other person acting in an official capacity if returned to Mexico. *See Garcia-Milian*, 755 F.3d 1026, 1034 (9th Cir. 2014) (“[a] government does not acquiesce in the torture of its citizens merely because it is aware of torture but powerless to stop it”) (internal quotation and citation omitted). Thus, we reject Jacobo’s contention that the BIA’s denial of his CAT claim violated his due process rights. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error to prevail on a due process claim).

PETITION FOR REVIEW DENIED.