

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 31 2017

FOR THE NINTH CIRCUIT

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

RIGOBERTO RODRIGUEZ-GUTIERREZ,  
AKA Rogoberto Rodriguez-Gutierrez, AKA  
Ruberto Rodriguez-Gutierrez,

No. 16-71205

Agency No. A095-286-683

Petitioner,

MEMORANDUM\*

v.

JEFFERSON B. SESSIONS III, Attorney  
General,

Respondent.

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

Submitted October 23, 2017\*\*

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

Rigoberto Rodriguez-Gutierrez, 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 ("IJ") decision denying his application for relief

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\* 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).

under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Go v. Holder*, 640 F.3d 1047, 1052 (9th Cir. 2011). We deny the petition for review.

Substantial evidence supports the agency’s denial of Rodriguez-Gutierrez’s CAT claim because, even if credible, 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 Mexico. *See id.* at 1054 (record evidence insufficient to compel conclusion that petitioner was more likely than not to be tortured); *Zheng v. Holder*, 644 F.3d 829, 835-36 (9th Cir. 2011) (fear of torture speculative).

We do not address Rodriguez-Gutierrez’s contention regarding the IJ’s particularly serious crime finding because the BIA expressly declined to reach this finding.

We reject Rodriguez-Gutierrez’s contention that the agency failed to consider record evidence.

**PETITION FOR REVIEW DENIED.**