

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 22 2018

FOR THE NINTH CIRCUIT

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

JOSE GUILLERMO NAVARRETE-
MALDONADO, AKA Mario Heriberto-
Ochoa, AKA Jose Guillermo Maldonado,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 17-70994

Agency No. A200-154-641

MEMORANDUM*

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

Submitted May 15, 2018**

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

Jose Guillermo Navarrete-Maldonado, a native and citizen of El Salvador,
petitions for review of the Board of Immigrations Appeals' ("BIA") order
dismissing his appeal from an immigration judge's decision denying his

* 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).

application for withholding of removal and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law, *Cerezo v. Mukasey*, 512 F.3d 1163, 1166 (9th Cir. 2008), except to the extent that deference is owed to the BIA’s determination of the governing statutes and regulations, *Simeonov v. Ashcroft*, 371 F.3d 532, 535 (9th Cir. 2004). We review for substantial evidence the agency’s factual findings. *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008). We deny the petition for review.

The agency did not err in finding that Navarrete-Maldonado failed to establish membership in a cognizable social group due to his status as a returnee, *see Reyes v. Lynch*, 842 F.3d 1125, 1139-40 (9th Cir. 2016), or due to his fear of harm from gangs, *see id.* at 1131 (“[To demonstrate membership in a particular social group,] [t]he applicant must ‘establish that the group is (1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question.’ ” (quoting *Matter of M-E-V-G-*, 26 I. & N. Dec. 227, 237 (BIA 2014))). We reject Navarrete-Maldonado’s contentions that the agency otherwise erred in its analysis. Thus, Navarrete-Maldonado’s withholding of removal claim fails.

Substantial evidence also supports the agency's denial of CAT relief because Navarrete-Maldonado failed to establish it is more likely than not he will be tortured with the consent or acquiescence of the government of El Salvador.

Garcia-Milian v. Holder, 755 F.3d 1026, 1034-35 (9th Cir. 2014) (evidence did not compel conclusion that petitioner established the state action necessary for CAT relief).

PETITION FOR REVIEW DENIED.