

United States Court of Appeals
For the Eighth Circuit

No. 16-3895

Ana Guadalupe Diaz-Posada

Petitioner

v.

Jefferson B. Sessions, III, Attorney General of the United States

Respondent

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

Submitted: August 22, 2017

Filed: August 30, 2017

[Unpublished]

Before WOLLMAN, MURPHY, and KELLY, Circuit Judges.

PER CURIAM.

Ana Guadalupe Diaz-Posada petitions for review of an order of the Board of Immigration Appeals dismissing her appeal from the decision of an immigration

judge (IJ), which denied her asylum and withholding of removal.¹ To qualify for asylum, Diaz had to establish that she was unable or unwilling to return to El Salvador due to persecution, or a well-founded fear of persecution, based on her membership in the particular social group she identified. See Ngengwe v. Mukasey, 543 F.3d 1029, 1032 (8th Cir. 2008). Upon careful consideration, we conclude that substantial evidence supports the agency's conclusion that Diaz-Posada failed to establish (1) past persecution, because she did not show that she suffered persecution at the hands of an individual the Salvadoran government was unable or unwilling to control, see id. (standard of review); Menjivar v. Gonzales, 416 F.3d 918, 921 (8th Cir. 2005) (persecution requires that harm be inflicted by country's government or by individuals the government is unable or unwilling to control); or (2) a well-founded fear of future persecution, because her fear that she would be harmed upon return was not objectively reasonable, see Agha v. Holder, 743 F.3d 609, 614 (8th Cir. 2014) (well-founded fear of future persecution must be subjectively genuine and objectively reasonable). Because Diaz-Posada did not satisfy the lower burden of proof required for asylum, her withholding-of-removal claim necessarily fails. See Agha, 743 F.3d at 615.

The petition for review is denied. See 8th Cir. R. 47B.

¹The IJ's denial of relief under the Convention Against Torture is not before this panel.