

United States Court of Appeals
For the Eighth Circuit

No. 16-4385

Henry Estuardo Diaz-Garcia,

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: September 25, 2017

Filed: October 11, 2017

[Unpublished]

Before WOLLMAN, BOWMAN, and COLLOTON, Circuit Judges.

PER CURIAM.

Guatemalan citizen Henry Estuardo Diaz-Garcia petitions for review of an order of the Board of Immigration Appeals dismissing his appeal from the decision of an immigration judge (IJ), which denied him withholding of removal and relief

under the Convention Against Torture (CAT).¹ Diaz-Garcia sought immigration relief based on his religion and on his membership in the proposed particular social group “Guatemalans who have rejected gang recruitment as youth and have fled the country and cannot return.” After careful consideration, we conclude that substantial evidence supports the denial of withholding relief, because: (1) Diaz-Garcia’s proposed social group is not cognizable; and (2) the record does not compel the conclusion that the gang members who beat and threatened Diaz-Garcia when he refused their recruitment efforts did so for any reason other than to increase their numbers, rather than on account of his religion or any other protected ground. *See De Castro-Gutierrez v. Holder*, 713 F.3d 375, 379-80 (8th Cir. 2013) (standard of review; enumerated grounds for immigration relief); *Ortiz-Puentes v. Holder*, 662 F.3d 481, 483-84 (8th Cir. 2011).

We further conclude that substantial evidence supports the agency’s denial of CAT relief, because Diaz-Garcia did not show that he was tortured, or would more likely than not be tortured by the Guatemalan government, or people acting on the government’s behalf, if he returned. *See De Castro-Gutierrez*, 713 F.3d at 381. Accordingly, the petition is denied. *See* 8th Cir. R. 47B.

¹The IJ’s determination that Diaz-Garcia’s asylum claim was time-barred is not before this panel.