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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSE LUIS RODRIGUEZ-MERIDA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-74579

Agency No. A098-762-789

MEMORANDUM*

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

Submitted October 19, 2010**

Before: O’SCANNLAIN, LEAVY, and TALLMAN, Circuit Judges.

Jose Luis Rodriguez-Merida, a native and citizen of Guatemala, 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 asylum, withholding of removal, and protection under the Convention Against Torture

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006), and we deny in part and dismiss in part the petition for review.

The IJ denied Rodriguez-Merida’s asylum application as time-barred. Rodriguez-Merida does not challenge this finding in his opening brief.

Substantial evidence supports the BIA’s determination that Rodriguez-Merida did not establish past persecution or a clear probability of future persecution based on the mistreatment he and other family members suffered when Rodriguez-Merida was a child. *See Prasad v. INS*, 47 F.3d 336, 339-40 (9th Cir. 1995); *see also Hernandez-Ortiz v. Gonzales*, 496 F.3d 1042, 1045-46 (9th Cir. 2002). We reject Rodriguez-Merida’s contention that the agency erred in failing to take into consideration Rodriguez-Merida’s age at the time the events occurred because the agency properly considered the harm to Rodriguez-Merida’s family and Rodriguez-Merida’s age at the time. *See Hernandez-Ortiz*, 496 F.3d at 1045-46.

We lack jurisdiction to review Rodriguez-Merida’s contentions that he suffered persecution as a member of a family-based social group and that he has a derivative fear of future persecution through his daughter, because he failed to exhaust these issue before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78

(9th Cir. 2004). Accordingly, Rodriguez-Merida's withholding of removal claim fails.

Finally, Rodriguez-Merida failed to set forth any substantive argument regarding the BIA's denial of his CAT claim. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996) (issues not supported by argument are deemed waived).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.