

DEC 29 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WILLIAM EDGARDO LEMUS-LEMUS,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71412

Agency No. A099-535-220

MEMORANDUM*

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

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and CLIFTON, Circuit Judges.

William Edgardo Lemus-Lemus, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's 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”). We have jurisdiction under 8 U.S.C. § 1252. We review de novo legal conclusions and for substantial evidence factual findings. *Santos-Lemus v. Mukasey*, 542 F.3d 738, 742 (9th Cir. 2008). We deny the petition for review.

The BIA found that Lemus-Lemus failed to establish past persecution or a well-founded fear of future persecution because his refusal to be recruited by the gangs did not constitute an expression of political opinion. Substantial evidence supports this conclusion. *See INS v. Elias-Zacarias*, 502 U.S. 478, 482-83 (1992); *Barrios v. Holder*, 581 F.3d 849, 856 (9th Cir. 2009) (resistance to gang membership did not establish political opinion) (internal quotation and citation omitted). We reject Lemus-Lemus’s contention that the BIA’s analysis was incomplete.

We do not consider Lemus-Lemus’s other arguments regarding past persecution because the BIA only addressed his resistance to gang recruitment. *See Ramirez-Altamirano v. Holder*, 563 F.3d 800, 804 (9th Cir. 2009) (this court’s review is limited to the actual grounds relied upon by the BIA); *Navas v. INS*, 217 F.3d 646, 658 n.16 (9th Cir. 2000) (“[T]his court cannot affirm the BIA on a ground upon which it did not rely.”) (citation omitted). Lemus-Lemus does not contend that the BIA erred by failing to consider other grounds for past

persecution. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not specifically raised and argued in a party's opening brief are waived).

Accordingly, we deny the petition as to Lemus-Lemus's asylum and withholding of removal claims.

Lemus-Lemus does not raise any challenge to the agency's denial of CAT relief. *See id.* Thus, we deny the petition as to his CAT claim as well.

PETITION FOR REVIEW DENIED.