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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

YENI MENJIVAR-HERCULES and  
URIEL MENJIVAR-HERCULES,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-70344

Agency Nos. A098-119-377  
A098-119-378

MEMORANDUM\*

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

Submitted March 8, 2011\*\*

Before: FARRIS, LEAVY and BYBEE, Circuit Judges.

Petitioners Yeni Menjivar-Hercules and her brother Uriel Menjivar-Hercules, natives and citizens of El Salvador, petition for review of a Board of Immigration Appeals order dismissing their appeal from an immigration judge's

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\* 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).

decision denying their application for withholding of removal.<sup>1</sup> We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for review.

Substantial evidence supports the Board’s denial of withholding of removal because petitioners failed to show they were subject to conduct rising to the level of persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003) (holding unfulfilled threats and an incident of physical violence did not establish past persecution).

Substantial evidence also supports the Board’s denial of withholding of removal because petitioners failed to show that gang members threatened them on account of a protected ground. Their fear of future persecution based on an actual or imputed anti-gang or anti-crime opinion is not on account of the protected ground of either membership in a particular social group or political opinion. *Ramos Barrios v. Holder*, 581 F.3d 849, 854-56 (9th Cir. 2009); *Santos-Lemus v. Mukasey*, 542 F.3d 738, 745-46 (9th Cir. 2008); *see Ochave v. INS*, 254 F.3d 859, 865 (9th Cir. 2001) (“Asylum generally is not available to victims of civil strife, unless they are singled out on account of a protected ground.”) Likewise,

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<sup>1</sup> Petitioners conceded their asylum application was untimely and did not request relief under the Convention Against Torture.

perceived wealth is not a protected ground. *Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1151-52 (9th Cir. 2010).

**PETITION FOR REVIEW DENIED.**