

FILED

JAN 17 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DERVIS YUKSEL,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-70561

Agency No. A079-264-931

MEMORANDUM*

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

Argued and Submitted September 14, 2016
San Francisco, California

Before: W. FLETCHER, CHRISTEN, and FRIEDLAND, Circuit Judges.

Dervis Yuksel, a native and citizen of Turkey, petitions for review of the Board of Immigration Appeals' (BIA) 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. We have jurisdiction under 8 U.S.C. § 1252. We review the agency's legal determinations

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

de novo, and factual findings for substantial evidence. *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009).

Yuksel argues that the immigration judge erred by deeming his cousin's affidavit irrelevant on the grounds that Yuksel's testimony about his own activities and experiences had been found not to be credible. But the BIA did consider the cousin's affidavit, along with the other documentary evidence offered by petitioner, and substantial evidence supports the Board's conclusion that Yuksel did not show an individualized risk of persecution or that there is a pattern or practice of persecution of ethnic Kurds in Turkey. *See id.* at 1060, 1066. The evidence does not compel the conclusion that there is systemic persecution of this ethnic minority in Turkey, *see Lolong v. Gonzales*, 484 F.3d 1173, 1180–81 (9th Cir. 2007), or that it is more likely than not that Yuksel will be tortured if he returns to Turkey, *see Wakkary*, 558 F.3d at 1067–68 (citing *Kamalthas v. INS*, 251 F.3d 1279, 1283 (9th Cir. 2001)). Finally, we agree with the BIA that Yuksel did not establish that he was denied a fair hearing. *See Vargas-Hernandez v. Gonzales*, 497 F.3d 919, 925 (9th Cir. 2007).

PETITION DENIED.