

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 2 2016

FOR THE NINTH CIRCUIT

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

LESLIE MIRISSAGE,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-70113

Agency No. A095-686-366

MEMORANDUM*

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

Submitted July 26, 2016**

Before: SCHROEDER, CANBY, and CALLAHAN, Circuit Judges.

Leslie Mirissage, a native and citizen of Sri Lanka, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for deferral of removal under the Convention Against Torture ("CAT"). We have jurisdiction

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

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

under 8 U.S.C. § 1252. We review for substantial evidence the agency's factual findings, *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008), and we deny the petition for review.

Substantial evidence supports the BIA's denial of CAT relief because Mirissage failed to establish it is more likely than not he would be tortured by or with the consent or acquiescence of the government if returned to Sri Lanka. *See Alphonsus v. Holder*, 705 F.3d 1031, 1049-50 (9th Cir. 2013). We reject Mirissage's contentions that the agency inadequately considered record evidence. *See id.* at 1049 (BIA may use its expertise in considering country reports to decide which portions are relevant). Thus, Mirissage's claim for deferral of removal under the CAT fails.

Finally, we do not consider materials attached to Mirissage's opening brief that were not part of the record before the agency. *See Fisher v. INS*, 79 F.3d 955, 963 (9th Cir. 1996) (en banc) (review limited to the administrative record).

PETITION FOR REVIEW DENIED.