

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 14 2017

FOR THE NINTH CIRCUIT

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

CARLOS ALBERTO GARAY-GUZMAN,

No. 15-70362

Petitioner,

Agency No. A087-534-879

v.

MEMORANDUM\*

JEFFERSON B. SESSIONS III, Attorney  
General,

Respondent.

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

Submitted August 9, 2017\*\*

Before: SCHROEDER, TASHIMA, and M. SMITH, Circuit Judges.

Carlos Alberto Garay-Guzman, a native and citizen of El Salvador, 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 withholding of removal. We have jurisdiction under 8 U.S.C. § 1252. We review

---

\* 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).

for substantial evidence the agency's factual findings, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006), and we deny the petition for review.

We do not consider new factual claims referenced in Garay-Guzman's opening brief. *See Fisher v. INS*, 79 F.3d 955, 963 (9th Cir. 1996) (en banc) (this court's review is limited to the administrative record).

Substantial evidence supports the agency's determination that, even if credible, the past harm Garay-Guzman suffered did not rise to the level of persecution. *See Lim v. INS*, 224 F.3d 929, 936-37 (unfulfilled threats generally do not constitute past persecution). Substantial evidence also supports the agency's determination that Garay-Guzman failed to establish a clear probability of future persecution. *See Tamang v. Holder*, 598 F.3d 1083, 1095 (9th Cir. 2010) (evidence did not compel a finding of a clear probability of future persecution to qualify for withholding of removal). Thus, Garay-Guzman's withholding of removal claim fails.

**PETITION FOR REVIEW DENIED.**