

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

May 15, 2009

Charles R. Fulbruge III
Clerk

No. 08-60737

Summary Calendar

EVIN JOSUE MARQUEZ-CASTILLO

Petitioner

v.

ERIC H HOLDER, JR, U S ATTORNEY GENERAL

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A200 122 168

Before HIGGINBOTHAM, BARKSDALE, and ELROD, Circuit Judges.

PER CURIAM:*

Evin Josue Marquez-Castillo, a native and citizen of Honduras, petitions this court for review of the Board of Immigration Appeals' affirmance of the immigration judge's denial of his request for asylum and withholding of removal. Marquez has also requested a stay of removal pending this court's consideration of his petition for review.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Marquez argues that he is entitled to asylum and withholding of removal because he is a member of a social group, i.e., young people who refuse to pick sides between or join rival gangs in Honduras. He further argues that he has a well-founded fear of persecution because the gangs threatened him based on his refusal to choose sides in the gang conflict.

As to Marquez's asylum claim, because harassment and threats do not qualify as persecution and because Marquez has not shown that any of the gangs' actions amounted to persecution, he has not shown that he was subject to persecution.¹ As a result, Marquez also has not shown that his fear of being beaten or killed on his return to Honduras was objectively reasonable, and thus he has not established a well-founded fear of future persecution.²

As to Marquez's withholding of removal request, because Marquez has failed to prove that he was entitled to asylum, a fortiori he has not shown that he meets the more stringent standard for proving that he is entitled to withholding of removal.³

Marquez's petition for review is DENIED, and his motion for a stay pending this court's consideration of his petition for review is DENIED as moot.

¹ See *Chen v. Gonzales*, 470 F.3d 1131, 1135 (5th Cir. 2006); *Eduard v. Ashcroft*, 379 F.3d 182, 188 (5th Cir. 2004).

² See *Chen*, 470 F.3d at 1135.

³ See *Efe v. Ashcroft*, 293 F.3d 899, 906 (5th Cir. 2002).