

United States Court of Appeals
For the Eighth Circuit

No. 17-1089

Wagner A. Monterroso Divas

Petitioner

v.

Jefferson B. Sessions, III, Attorney General of the United States

Respondent

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

Submitted: October 24, 2017

Filed: October 30, 2017

[Unpublished]

Before WOLLMAN, GRUENDER, and BENTON, Circuit Judges.

PER CURIAM.

Wagner A. Monterroso Divas challenges the Board of Immigration Appeals denial of withholding of removal. Having jurisdiction under 8 U.S.C. § 1252(a), this court denies the petition for review.

Divas argues that as a former pharmaceutical delivery driver, he is a member of a discrete social group in Guatemala. *See* 8 U.S.C. § 1231(b)(3)(A). This court declines to reach that issue but addresses an alternative, independently sufficient reason the Board of Immigration Appeals ruled against him: he did not prove the persecution he claims to have suffered at the hands of gang members was attributable to the Guatemalan government. *See, e.g., Menjivar v. Gonzales*, 416 F.3d 918, 921 (8th Cir. 2005) (“The BIA has adopted, and we have approved as reasonable, a definition of ‘persecution’ that requires a harm to be inflicted either by the government of a country or by persons or an organization that the government was unable or unwilling to control.” (quotation and brackets omitted)).

The petition for review is denied.
