

MAR 14 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AKM SHAMSUL HAQUE,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71422

Agency No. A095-629-961

MEMORANDUM*

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

Submitted March 6, 2012**

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Akm Shamsul Haque, a native and citizen of Bangladesh, petitions for review of the Board of Immigration Appeals' 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 for substantial evidence

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

the agency's factual findings and review de novo its legal conclusions. *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009). We grant the petition for review and we remand.

Substantial evidence does not support the agency's nexus determination because Haque's testimony established that he articulated his political opposition to rival party members and that the subsequent attacks and extortion were motivated, at least in part, on account of his political opinion. *See Borja v. INS*, 175 F.3d 732, 735-37 (9th Cir. 1999) (en banc). Because the agency erred in its nexus determination, it did not fully consider Haque's claim of past persecution and whether Haque has a presumption of future persecution. *See Recinos de Leon v. Gonzales*, 400 F.3d 1185, 1191-92 (9th Cir. 2005). Accordingly, we grant the petition as to Haque's withholding of removal claim and remand for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

PETITION FOR REVIEW GRANTED; REMANDED.