

APR 27 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JORGE ALBERTO DIAZ-MARTINEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-72339

Agency No. A094-789-427

MEMORANDUM\*

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

Submitted April 22, 2015\*\*

Before: GOODWIN, BYBEE, and CHRISTEN, Circuit Judges.

Jorge Alberto Diaz-Martinez, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture

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\* 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).

(“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, *Rahimzadeh v. Holder*, 613 F.3d 916, 920 (9th Cir. 2010), and we deny the petition for review.

The record does not compel the conclusion that Diaz-Martinez established the government of El Salvador is unwilling or unable to control the street gangs he fears. *See id.* at 920 (an applicant for asylum and withholding of removal bears the burden of establishing that the government would be unwilling or unable to prevent his persecution); *see also Nahrvani v. Gonzales*, 399 F.3d 1148, 1154 (9th Cir. 2005) (record does not compel a contrary conclusion where “reasonable minds could differ”). Thus, Diaz-Martinez’s asylum and withholding of removal claims fail.

Substantial evidence supports the BIA’s denial of CAT relief because Diaz-Martinez did not establish it is more likely than not he would be tortured by the government of El Salvador or with its consent or acquiescence. *See Silaya v. Mukasey*, 524 F.3d 1066, 1073 (9th Cir. 2008).

**PETITION FOR REVIEW DENIED.**