

MAY 29 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARCOS ANTONIO AGUILAR-RODRIGUEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-73020

Agency No. A200-289-337

MEMORANDUM*

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

Submitted May 13, 2014**

Before: CLIFTON, BEA and WATFORD, Circuit Judges.

Marcos Antonio Aguilar-Rodriguez, 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 (“IJ”) decision denying his application for withholding of removal and relief under the Convention Against

* 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).

Torture (“CAT”). We review for substantial evidence factual findings, and review de novo questions of law. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006). We deny in part and grant in part, the petition for review and we remand.

Substantial evidence supports the BIA’s denial of CAT relief because Aguilar-Rodriguez failed to show it is more likely than not he will be tortured with the consent or acquiescence of the Salvadoran government. *See Santos-Lemus v. Mukasey*, 542 F.3d 738, 747-48 (9th Cir. 2008).

The agency determined Aguilar-Rodriguez had not met the nexus requirement for withholding of removal. When the IJ and BIA issued their decisions they did not have the benefit of either this court’s decisions in *Henriquez-Rivas v. Holder*, 707 F.3d 1081 (9th Cir. 2013) (en banc), and *Cordoba v. Holder*, 726 F.3d 1106 (9th Cir. 2013), or the BIA’s decisions in *Matter of M-E-V-G-*, 26 I. & N. Dec. 227 (BIA 2014), and *Matter of W-G-R-*, 26 I. & N. Dec. 208 (BIA 2014). Thus, we grant the petition as to Aguilar-Rodriguez’s withholding of removal claim, and remand to determine the impact, if any, of these decisions. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

Each party shall bear their own costs for this petition for review.

PETITION FOR REVIEW DENIED in part; GRANTED in part; and REMANDED.