

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 24 2016

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JUAN CARLOS DIAZ,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-70907

Agency No. A092-503-875

MEMORANDUM*

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

Submitted August 16, 2016**

Before: O'SCANNLAIN, LEAVY, and CLIFTON, Circuit Judges.

Juan Carlos Diaz, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for deferral of removal under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Thus, we deny Diaz's request for oral argument.

§ 1252. We review for substantial evidence the agency's factual findings, *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008), and we deny the petition for review.

Substantial evidence supports the agency's conclusion that Diaz failed to meet his burden of proof to demonstrate that it is more likely than not he would be tortured by or with the consent or acquiescence of a public official or other person acting in an official capacity if returned to Guatemala. *See Alphonsus v. Holder*, 705 F.3d 1031, 1049 (9th Cir. 2013) (the evidence did not compel the finding that petitioner would more likely than not be tortured upon return). We reject Diaz's contentions that the agency failed to consider evidence and misstated the record.

PETITION FOR REVIEW DENIED.