

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 10 2016

FOR THE NINTH CIRCUIT

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

JOSE SOTO-MONTANO, AKA Jose
Montano, AKA Jose Soto,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-71343

Agency No. A205-710-440

MEMORANDUM*

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

Submitted October 25, 2016**

Before: LEAVY, GRABER, and CHRISTEN, Circuit Judges.

Jose Soto-Montano, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for protection under the Convention Against Torture ("CAT"). Our jurisdiction is governed by

* 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 Soto-Montano's request for oral argument as set forth in his opening brief.

8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, *Silaya v. Mukasey*, 524 F.3d 1066, 1073 (9th Cir. 2008), and we deny in part and dismiss in part the petition for review.

Substantial evidence supports the agency’s denial of CAT protection because Soto-Montano failed to establish it is more likely than not he would be tortured if returned to Mexico. *See Blandino-Medina v. Holder*, 712 F.3d 1388, 1348 (9th Cir. 2013) (affirming denial of CAT where “rather than presenting hard evidence of a probability” of torture, petitioner “merely presented a series of worst-case scenarios.”). Soto-Montano’s contention that the agency violated his due process rights is unexhausted so we lack jurisdiction over this claim, *see Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004), and his contentions that the IJ ignored evidence or erred in her analysis are unpersuasive. Thus, we deny the petition for review as to Soto-Montano’s CAT claim.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.