

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 15 2019

FOR THE NINTH CIRCUIT

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

ROBERTO ANTONIO REYES
ECHEVERRIA, AKA Roberto Reyes,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 16-72805

Agency No. A095-743-288

MEMORANDUM*

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

Submitted March 12, 2019**

Before: LEAVY, BEA, and N.R. SMITH, Circuit Judges.

Roberto Antonio Reyes Echeverria, a native and citizen of El Salvador, 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 and protection under the Convention Against Torture

* 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).

(“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the agency’s particularly serious crime determination, *Konou v. Holder*, 750 F.3d 1120, 1124 (9th Cir. 2014), and review for substantial evidence the agency’s determinations regarding credibility and CAT relief, *Shrestha v. Holder*, 590 F.3d 1039, 1048 (9th Cir. 2010). We deny the petition for review.

The agency did not abuse its discretion in determining Reyes Echeverria’s conviction under California Health and Safety Code § 11351.5 is a particularly serious crime that renders him ineligible for withholding of removal, where drug trafficking crimes are presumed to be particularly serious, and the agency relied on the appropriate factors and proper evidence in concluding Reyes Echeverria failed to rebut that presumption. *See* 8 U.S.C. § 1231(b)(3)(B)(ii); 8 C.F.R. § 1208.16(d)(2); *Miguel-Miguel v. Gonzales*, 500 F.3d 941, 949 (9th Cir. 2007) (recognizing the “strong presumption” that drug trafficking offenses are particularly serious); *Avendano-Hernandez v. Lynch*, 800 F.3d 1072, 1077 (9th Cir. 2015) (the court’s review of the agency’s discretionary particularly serious crime determination is limited to ensuring the agency relied on the appropriate factors and proper evidence). To the extent Reyes Echeverria challenges the agency’s adverse credibility determination and the determination is subject to review, it is supported by substantial evidence. *See Shrestha*, 590 F.3d at 1039 (9th Cir. 2010) (adverse credibility determination supported under the totality of circumstances).

Substantial evidence supports the agency's denial of CAT relief, where Reyes Echeverria did not show it is more likely than not he would be tortured by or with the acquiescence of the Salvadoran government. *See Garcia-Milian v. Holder*, 755 F.3d 1026, 1033 (9th Cir. 2014).

PETITION FOR REVIEW DENIED.