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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>EFRAIN GOMEZ SOSA,</p> <p>Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p>Respondent.</p>
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No. 06-74144

Agency No. A72-695-444

MEMORANDUM*

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

Submitted February 26, 2008**

Before: BEEZER, FERNANDEZ and McKEOWN, Circuit Judges.

Efrain Gomez Sosa, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from the Immigration Judge’s (“IJ”) decision denying his application for cancellation of

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

removal, asylum, withholding of removal and protection under the Convention Against Torture (“CAT”). To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review for substantial evidence the agency’s denial of asylum and withholding of removal, *Lata v. INS*, 204 F.3d 1241, 1244 (9th Cir. 2000) and we deny in part and dismiss in part the petition for review.

Substantial evidence supports the agency’s finding, in light of changed country conditions in Guatemala and the generalized nature of Sosa’s fear, that Sosa did not establish a well founded fear of future persecution. *See Molina-Estrada v. INS*, 293 F.3d 1089, 1095-96 (9th Cir. 2002).

Because Sosa failed to establish eligibility for asylum, he necessarily fails to meet the more stringent standard for withholding of removal. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003). Substantial evidence also supports the IJ’s denial of CAT relief because Sosa failed to show that it is more likely than not that he would be tortured if returned to Guatemala. *See id.*

We lack jurisdiction to review the agency’s discretionary determination that Sosa failed to show exceptional and extremely unusual hardship to a qualifying relative. *See Romero-Torres v. Ashcroft*, 327 F.3d 887, 890 (9th Cir. 2003).

Sosa’s contention that the agency deprived him of due process by misapplying the law to the facts of his case and by disregarding their evidence of hardship is not

supported by the record and does not amount to a colorable constitutional claim. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005) (“traditional abuse of discretion challenges recast as alleged due process violations do not constitute colorable constitutional claims that would invoke our jurisdiction.”); *see also Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001) (holding that the “misapplication of case law” may not be reviewed).

PETITION FOR REVIEW DENIED in part and DISMISSED in part.