

DEC 26 2008

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>ORLANDO ANTONIO GRAJALES; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p> |
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No. 05-73271

Agency Nos. A079-572-145
A079-572-146
A079-572-147
A079-572-148
A079-589-180
A079-589-181

MEMORANDUM *

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

Submitted December 17, 2008**

Before: GOODWIN, WALLACE, and TROTT, Circuit Judges.

Orlando Antonio Grajales, his wife and two daughters, and Deison Blandon and his wife, natives and citizens of Colombia, petition for review of the Board 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).

Immigration Appeals' ("BIA") order dismissing their appeal from an immigration judge's decision denying their applications for asylum, withholding of removal, and relief under the Convention Against Torture. We have jurisdiction under 8 U.S.C. § 1252. Reviewing for substantial evidence, *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n1 (1992), we deny the petition for review.

Substantial evidence supports the BIA's conclusion that petitioners have failed to demonstrate that the guerillas threatened petitioners and demanded money from them on account of a protected ground. *See Elias-Zacarias*, 502 U.S. at 482-83. Contrary to petitioners' contention, the record does not demonstrate that the petitioners communicated a political opinion to the guerillas and the evidence does not compel a finding that the guerillas were motivated, even in part, by petitioners' political opinion. *Cf. Borja v. INS*, 175 F.3d 732, 735-36 (9th Cir. 1999).

Accordingly, they have failed to establish eligibility for asylum. *See id.* at 481.

Because petitioners failed to establish eligibility for asylum, they necessarily failed to meet the more stringent requirements for withholding of removal. *See Zehatye*, 453 F.3d at 1190.

Substantial evidence supports the BIA's finding that petitioners failed to demonstrate that it is more likely than not that they will be tortured if they return to Colombia. *See Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004).

PETITION FOR REVIEW DENIED.