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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MIGUEL ANGEL GAMBOA NAJERA;  
et al.,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-70708

Agency Nos. A075-253-882  
A075-253-883  
A075-253-884  
A075-253-885  
A075-253-887  
A075-253-888

MEMORANDUM \*

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

Submitted February 18, 2009\*\*

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Miguel Angel Gamboa Najera, his wife Elia Gamboa, and four of their children, petition for review of the Board of Immigration Appeals' ("BIA") decision summarily affirming the Immigration Judge's ("IJ") order denying their

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\* 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).

applications for asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). “We review the IJ’s findings of fact for substantial evidence and will uphold these findings if they are supported by ‘reasonable, substantial, and probative evidence on the record considered as a whole.’” *Abebe v. Gonzales*, 432 F.3d 1037, 1039-40 (9th Cir. 2005) (quoting *Mejia-Paiz v. INS*, 111 F.3d 720, 722 (9th Cir. 1997)). We deny the petition for review.

Substantial evidence supports the IJ’s decision to deny asylum on the grounds that Gamboa Najera (1) failed to establish a nexus between his claims of persecution and a protected ground, (2) failed to establish that the Durango police were unwilling or unable to control the local gang which Gamboa-Najera feared, and (3) failed to establish that his subjective well-founded fear of persecution was objectively reasonable. *See Navas v. INS*, 217 F.3d 646, 656 (9th Cir. 2000) (in order to establish persecution on account of political opinion, applicant must show that he held a political opinion and that he was persecuted because of it); *Nahrvani v. Gonzales*, 399 F.3d 1148, 1154 (9th Cir. 2005) (an unsuccessful government investigation does not necessarily establish that the government is unwilling or unable to control a non-governmental actor). The evidence does not compel a finding that Gamboa Najera and his family established a well-founded fear of

future persecution. *See Singh v. INS*, 134 F.3d 962, 966 (9th Cir. 2000).

Accordingly, we deny the asylum claim.

Gamboa Najera failed to challenge the IJ's denial of his applications for withholding of removal and CAT relief before the BIA, and we therefore lack jurisdiction to consider those claims. *See* 8 U.S.C. § 1251(d)(1); *Zara v. Ashcroft*, 383 F.3d 927, 931 (9th Cir. 2004). Gamboa Najera also failed to argue before either the IJ or the BIA that he qualifies for humanitarian asylum, and we therefore lack jurisdiction to consider that claim. *See Rodas-Mendoza v. INS*, 246 F.3d 1237, 1240 (9th Cir. 2001).

**PETITION FOR REVIEW DENIED.**