FILED

MAR 24 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LISSET YANIRA CHINCHILLA ACEVEDO, Petitioner, v. ERIC H. HOLDER, Jr., Attorney General, Respondent.	No. 06-73777 Agency No. A094-331-220 MEMORANDUM[*]

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

Submitted March 18, 2009[**]

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Lisset Yanira Chinchilla Acevedo, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's decision denying her application for asylum,

---

[*] 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).

withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Nagoulko v. INS*, 333 F.3d 1012, 1015 (9th Cir. 2003), and we deny the petition for review.

To the extent Chinchilla Acevedo argues that her untimely filed asylum application should be excused, the record does not compel the conclusion that changed or extraordinary circumstances excuse the delay. *See* 8 C.F.R. § 1208.4(a)(4),(5); *see also Husyev v. Mukasey*, 528 F.3d 1172, 1181 (9th Cir. 2008).

Substantial evidence supports the agency's denial of withholding of removal, because Chinchilla Acevedo failed to demonstrate that the threats and harm she suffered rose to the level of past persecution. *See Nagoulko*, 333 F.3d at 1016-17. Substantial evidence further supports the agency's conclusion that Chinchilla Acevedo failed to establish that it is more likely than not that she will be persecuted if she returns to El Salvador. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1184-85 (9th Cir. 2003).

Finally, substantial evidence supports the agency's denial of CAT relief because Chinchilla Acevedo failed to establish that it is more likely than not she will be tortured if she returns to El Salvador. *See Singh v. Ashcroft*, 351 F.3d 435, 443 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.