

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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

ADEL SAAD YOUSF,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71457

Agency No. A088-637-199

MEMORANDUM*

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

Argued and Submitted March 16, 2009
Coeur d' Alene, Idaho **

Before: THOMPSON, TROTT and N.R. SMITH, Circuit Judges.

Adel Saad Yousf, a native and citizen of Iraq, petitions for review of a Board of Immigration Appeals (“BIA”) decision affirming the order of an Immigration

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

** We are grateful for the fine work done on this appeal by Elizabeth Schwantor and Robert Jaeggli, law students at University of Idaho College of Law, under the supervision of attorney Monica Schurtman, in their representation of Petitioner, Adel Saad Yousf.

Judge (“IJ”) denying asylum, withholding of removal, and relief under Convention Against Torture.¹ Yousf asserts persecution on account of his Sunni Muslim religion. Because the parties are aware of the facts of this case, we do not recount them here. We have jurisdiction under 8 U.S.C. § 1252. We deny the petition.

The BIA adopted and affirmed the IJ’s decision, citing *Matter of Burbano*, 20 I. & N. Dec. 872, 874 (BIA 1994). We therefore review the IJ’s decision as if it were that of the BIA. *See Abebe v. Gonzales*, 432 F.3d 1037, 1039-40 (9th Cir. 2005) (en banc). In reviewing the IJ’s decision that Yousf did not establish past persecution, we apply the substantial evidence standard to factual findings. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1184–85 (9th Cir. 2006). We take Yousf’s testimony as true, as the IJ made no adverse credibility finding. *See Vukmirovic v. Ashcroft*, 362 F.3d 1247, 1251 (9th Cir. 2004).

Substantial evidence supports the IJ’s finding that Yousf failed to establish past persecution. The threats were not directed at Yousf, individually, but rather aimed at getting Yousf and his family to leave his neighborhood. Once he and his family moved, the threats stopped. Additionally, the threats received by Yousf and

¹ Yousf also argued in a footnote that he qualifies for withholding of removal and relief under Convention Against Torture. Because Yousf did not specifically and distinctly argue these issues, they are waived. *See Paladin Assocs., Inc. v. Mont. Power Co.*, 328 F.3d 1145, 1164 (9th Cir. 2003)

his family were not sufficiently extreme to compel a finding of past persecution. *See Lanza v. Ashcroft*, 389 F.3d 917, 934 (9th Cir. 2004) (describing persecution as an “extreme concept that does not include every sort of treatment our society regards as offensive”); *Lim v. INS*, 224 F.3d 929, 936 (9th Cir. 2000) (“Threats standing alone . . . constitute past persecution in only a small category of cases, and only when the threats are so menacing as to cause significant actual suffering or harm.” (internal quotation omitted)).

Because Petitioner failed to establish past persecution, he bears the burden of establishing (1) a well-founded fear of future persecution, *Nagoulko v. INS*, 333 F.3d 1012, 1018 (9th Cir. 2003), and (2) that internal relocation is unreasonable, *Cardenas v. INS*, 294 F.3d 1062, 1066 (9th Cir. 2002). Substantial evidence supports the IJ’s finding that Yousf failed to demonstrate a well-founded fear of future persecution, because Yousf did not offer any probative evidence that it would be unreasonable, under all of the circumstances, for him to relocate internally. *See Melkonian v. Ashcroft*, 320 F.3d 1061, 1069-71 (9th Cir. 2003). The evidence suggests that Yousf could safely relocate elsewhere in Iraq, as evidenced by the absence of threats after Yousf and his family left Baghdad. *See* 8 C.F.R. § 1208.13(b)(3)(i); *Kaiser v. Ashcroft*, 390 F.3d 653, 659 (9th Cir. 2004) (“An applicant is ineligible for asylum if the evidence establishes that ‘the

applicant could avoid persecution by relocating to another part of the applicant's country of nationality . . . if under all the circumstances it would be reasonable to expect the applicant to do so.'"). Furthermore, Yousf did not establish (1) membership in a disfavored group or (2) a pattern and practice of systematic persecution by Shi'a militias of Sunnis throughout Iraq. *See Kotasz v. INS*, 31 F.3d 847, 852 (9th Cir. 1994). Accordingly, Yousf failed to demonstrate a well-founded fear of future persecution.

PETITION DENIED.