

APR 08 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROSA HERMENIA ZEPEDA-LINARES,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 05-70098

Agency No. A027-620-537

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.

Rosa Hermenia Zepeda-Linares, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing her appeal from an immigration judge’s (“IJ”) removal order. We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency's factual findings, *Lata v. INS*, 204 F.3d 1241, 1244 (9th Cir. 2000), and de novo due process claims, *Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001). We deny the petition for review.

Substantial evidence supports the agency's conclusion that the threats Zepeda-Linares experienced were not on account of a protected ground, *see Sangha v. INS*, 103 F.3d 1482, 1486-87 (9th Cir. 1997), and that she failed to demonstrate that any harm she may suffer if returned to El Salvador would be on account of a protected ground, *id.*

Because Zepeda-Linares failed to establish her eligibility for asylum, she necessarily failed to meet the more stringent standard for withholding of removal. *See Alvarez-Santos v. INS*, 332 F.3d 1245, 1255 (9th Cir. 2003).

Substantial evidence also supports the agency's determination that Zepeda-Linares failed to show that it is more likely than not that she would be tortured if returned to El Salvador. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

We reject Zepeda-Linares' contention that the IJ violated her due process rights as unsupported by the record. *See Melkonian v. Ashcroft*, 320 F.3d 1061, 1072 (9th Cir. 2003).

Finally, the BIA acted within its discretion in denying Zepeda-Linares' request to apply for relief under the Nicaraguan Adjustment and Central American Relief Act because she failed to show prima facie eligibility for that relief. *See Albillo-DeLeon v. Gonzales*, 410 F.3d 1090, 1093-94 (9th Cir. 2005).

PETITION FOR REVIEW DENIED.