

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 24 2009

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

JOSE A. CHALIN SANTOS,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71143

Agency No. A073-915-117

MEMORANDUM*

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

Submitted July 14, 2009**

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Jose A. Chalin Santos, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding 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).

removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *INS v. Elias-Zacarias*, 502 U.S. 478, 481 (1992), and we deny the petition for review.

Substantial evidence supports the agency’s denial of asylum because petitioner failed to demonstrate that the incidents of attempted forced recruitment by guerillas established past persecution or a well-founded fear of future persecution on account of political opinion, real or imputed. *See id.* at 481-84. Further, substantial evidence supports the agency’s conclusion that, because country conditions had changed, petitioner did not show a well-founded fear of future persecution if he returned to Guatemala. *See Molina-Estrada v. INS*, 293 F.3d 1089, 1095-96 (9th Cir. 2002).

Because petitioner failed to establish eligibility for asylum, he necessarily failed to meet the more stringent standard for withholding of removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

Substantial evidence supports the agency’s denial of CAT protection because petitioner failed to show it is more likely than not that he would be subject to torture if returned to Guatemala. *See El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004). We reject petitioner’s contention that the IJ erred in assessing his

eligibility for relief under CAT. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000).

PETITION FOR REVIEW DENIED.