

OCT 22 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GUSTAVO BUENO,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-73295

Agency No. A079-281-783

MEMORANDUM\*

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

Argued and Submitted October 5, 2009  
San Francisco, California

Before: SCHROEDER and BERZON, Circuit Judges, and STROM,\*\* District  
Judge.

Gustavo Bueno, a native and citizen of Peru, petitions for review of the  
Board of Immigration Appeals' ("BIA") decision upholding the Immigration  
Judge's ("IJ") decision that he was ineligible for cancellation of removal because

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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 Honorable Lyle E. Strom, Senior US District Judge for District of  
Nebraska, sitting by designation.

he assisted in persecution. See 8 U.S.C. §§ 1229b(c)(5), 1231(b)(3)(B)(i).

Petitioner was a police officer who arrested suspected members of the Shining Path and placed them in cells for interrogation by intelligence agents. The issue is whether the BIA's finding that petitioner was personally involved and assisted in persecution was supported by substantial evidence.

The record supports the finding that petitioner had reason to expect that the individuals he arrested would be persecuted, as he personally was aware of widespread reports that there was physical harm to the arrestees and that deaths of arrestees occurred with regularity. There is no requirement that a person who assists in persecution must personally inflict harm, so long as the person's activities were part of a chain of conduct that resulted in persecution. See Miranda Alvarado v. Gonzales, 449 F.3d 915, 927-28 & n.11 (9th Cir. 2006). Moreover, in the circumstances of this case, there was no burden on the government to show that petitioner knew the particular persons he arrested had actually been persecuted. Rather, given the evidence in the record, it was sufficiently probable that one or more of the persons he arrested and detained was persecuted that the burden was on Bueno to prove that no such persecution occurred. Bueno did not meet that burden.

The petition for review is denied.