

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 07-2264

Roberto Funes Tercero,

Petitioner,

v.

Michael B. Mukasey,

Respondent.

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

[UNPUBLISHED]

Submitted: May 26, 2008

Filed: June 2, 2008

Before BYE, SMITH, and BENTON, Circuit Judges.

PER CURIAM.

Roberto Funes Tercero, a native and citizen of Guatemala, petitions for review of an order of the Board of Immigration Appeals (BIA), which affirmed an Immigration Judge's (IJ's) denial of withholding of removal¹ based on Tercero's failure to show that he had suffered past persecution or that it was more likely than not he would be persecuted if returned to Guatemala.

¹Tercero does not challenge the denial of his request for asylum or relief under the Convention Against Torture.

Upon careful review, we conclude that the BIA's decision is supported by substantial evidence on the record as a whole. See Ming Ming Wijono v. Gonzales, 439 F.3d 868, 872 (8th Cir. 2006) (standard of review). The IJ gave specific and convincing reasons for disbelieving Tercero's testimony regarding past and likely future persecution on account of his Mayan ethnicity. See Mamana v. Gonzales, 436 F.3d 966, 968-69 (8th Cir. 2006). Further, the then current Country Report on Human Rights Practices in Guatemala indicated that the Guatemalan government had taken steps to curb discrimination and to protect the rights of the indigenous population. Cf. Pascual v. Mukasey, 514 F.3d 483, 488 (6th Cir. 2007) (rejecting asylum claim based on Mayan ethnicity).

Accordingly, we deny the petition.
