

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 25 2022

FOR THE NINTH CIRCUIT

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

JOSE PEREZ ROBLES, AKA Perez Robles
Jose,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 16-72871

Agency No. A208-081-896

MEMORANDUM*

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

Submitted November 15, 2022**

Before: CANBY, CALLAHAN, and BADE, Circuit Judges.

Jose Perez Robles, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ's") decision denying his applications for asylum, withholding of removal, protection under the Convention Against Torture

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(“CAT”), and cancellation of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006). We deny in part and dismiss in part the petition for review.

Because Perez Robles does not challenge the agency’s determination that his asylum application is untimely, or the denial of CAT protection, these issues are waived. *See Rios v. Lynch*, 807 F.3d 1123, 1125 n.1 (9th Cir. 2015) (issues not specifically raised and argued in a party’s opening brief are waived). Thus, we deny the petition for review as to Perez Robles’s asylum and CAT claims.

Substantial evidence supports the agency’s determination that Perez Robles failed to establish he was or would be persecuted on account of a protected ground. *See INS v. Elias-Zacarias*, 502 U.S. 478, 483 (1992) (an applicant “must provide some evidence of [motive], direct or circumstantial”); *Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010) (an applicant’s “desire to be free from harassment by criminals motivated by theft or random violence by gang members bears no nexus to a protected ground”). Thus, Perez Robles’s withholding of removal claim fails.

We lack jurisdiction to consider Perez Robles’s contentions regarding his eligibility for cancellation of removal because he failed to challenge the IJ’s hardship finding before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (court lacks jurisdiction to review claims not presented to the

agency).

We reject as unsupported by the record Perez Robles's contentions that he was improperly denied adjustment of status and that the IJ did not provide him with an application for cancellation of removal.

We deny Perez Robles's request for voluntary departure to be reinstated where he has not shown error in the BIA's determination that he failed to provide proof of bond payment as required under 8 C.F.R. § 1240.26(c)(3)(ii).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.