

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 14 2022

FOR THE NINTH CIRCUIT

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

DELBER PORTILLO-PORTILLO, AKA  
Miguel Castillo,

Petitioner,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 17-71806

Agency No. A070-032-807

MEMORANDUM\*

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

Submitted December 8, 2022\*\*

Before: WALLACE, TALLMAN, and BYBEE, Circuit Judges.

Delber Portillo-Portillo, native and citizen of El Salvador, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his applications for withholding of removal and protection under the Convention Against Torture ("CAT"). We have

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\* 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).

jurisdiction under 8 U.S.C. § 1252. We review factual findings for substantial evidence. *Conde Quevedo v. Barr*, 947 F.3d 1238, 1241 (9th Cir. 2020). We deny the petition for review.

In his opening brief, Portillo-Portillo does not challenge, and therefore waives, the BIA's determination that his conviction pursuant to California Penal Code § 211 constitutes a particularly serious crime that renders him ineligible for withholding of removal under the Immigration and Nationality Act and the CAT. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013) (issues not specifically raised and argued in a party's opening brief are waived).

Substantial evidence supports the denial of CAT protection because Portillo-Portillo did not establish that it is more likely than not he would be tortured if returned to El Salvador. *See Zheng v. Holder*, 644 F.3d 829, 835-36 (9th Cir. 2011) (claims of possible torture were speculative); *Go v. Holder*, 640 F.3d 1047, 1054 (9th Cir. 2011) (country reports and credible testimony were insufficient to compel conclusion that petitioner was more likely than not to be tortured).

The temporary stay of removal remains in place until the mandate issues.

**PETITION FOR REVIEW DENIED.**