

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 21 2022

FOR THE NINTH CIRCUIT

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

DOMINGOS PEDRO MIGUEL,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 17-71849

Agency No. A208-925-332

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.

Domingos Pedro Miguel, a native and citizen of Angola, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge ("IJ") decision denying his applications for asylum, withholding of removal, and 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”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Flores Molina v. Garland*, 37 F.4th 626, 632 (9th Cir. 2022). We grant in part and deny in part the petition for review, and we remand.

As to asylum and withholding of removal, the record compels the conclusion that the cumulative harm Miguel suffered in Angola, which included detention, beatings, and threats, rose to the level of persecution. *See Singh v. Garland*, 48 F.4th 1059, 1069 (9th Cir. 2022) (past persecution analysis is informed by comparing the facts with similar cases, and severe physical injuries are not required to meet standard); *Ndom v. Ashcroft*, 384 F.3d 743, 751-52 (9th Cir. 2004), *superseded by statute on other grounds as stated by Parussimova v. Mukasey*, 555 F.3d 734, 739-40 (9th Cir. 2009) (threat and detention in harsh conditions compelled finding of past persecution); *Mihalev v. Ashcroft*, 388 F.3d 722, 729-30 (9th Cir. 2004) (ten-day detention and beatings when “there is no evidence that Petitioner suffered a significant injury as a result of those beatings” compelled finding of past persecution).

Thus, we grant the petition as to Miguel’s asylum and withholding of removal claims, and remand for any necessary further proceedings consistent with this disposition. *See Mihalev*, 388 F.3d at 730; *see also INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

Because Miguel does not challenge the agency's determination that he is not eligible for CAT protection, this issue is waived. *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). Therefore, we deny the petition for review as to Miguel's CAT claim.

The government shall bear the costs for this petition for review.

**PETITION FOR REVIEW GRANTED in part; DENIED in part;
REMANDED.**