

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 13 2022

FOR THE NINTH CIRCUIT

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

BYRON NORMAN PEREZ,

No. 17-72117

Petitioner,

Agency No. A205-716-660

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted November 18, 2022**
San Francisco, California

Before: S.R. THOMAS and BENNETT, Circuit Judges, and DORSEY,*** District
Judge.

* 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).

*** The Honorable Jennifer A. Dorsey, United States District Judge for
the District of Nevada, sitting by designation.

Petitioner Byron Perez is a native and citizen of Belize. He petitions for review of the Board of Immigration Appeals (“BIA”) order denying his application for withholding of removal and relief under the Convention Against Torture (“CAT”).¹ We have jurisdiction under 8 U.S.C. § 1252 and deny the petition.

The agency appropriately denied withholding of removal because Petitioner did not establish the requisite nexus between his fears and either his membership in a particular social group or his political opinion. Petitioner defined his particular social group as “young male [Belizeans] who [are] believed to have been witnesses against” the Skeleton Town Gangsters criminal gang, also known as STG. Petitioner stated his political opinion as STG believing that “he is against them no matter what he does.” He claims the BIA applied the wrong nexus standard in assessing his withholding of removal claims.

Applicants for withholding of removal must demonstrate that their lives or freedoms would be threatened for “a reason” described by the withholding of removal statute, a more lenient standard for nexus than the standard for asylum. *Barajas-Romero v. Lynch*, 846 F.3d 351, 358–60 (9th Cir. 2017) (quoting 8 U.S.C. § 1231). The BIA applied the appropriate “a reason” standard when holding that Petitioner did not sufficiently show that STG’s past motive in harassing him was

¹ Petitioner does not challenge the BIA’s determination that he waived his asylum claim.

not financially driven or simply to perpetuate general criminal acts. Nor has Petitioner alleged any actions he took to oppose STG which may have caused the gang to target him because of a particular social group or political opinion. *See Matter of M-E-V-G-*, 26 I. & N. Dec. 227, 250 (BIA 2014) (explaining that being “subjected to one of the many different criminal activities that the gang used to sustain its criminal enterprise” did not establish one was “more likely to be persecuted by the gang on account of a protected ground than was any other member of the society”). There is sufficient evidence in the record to support the agency’s determination that STG’s harassment of Petitioner was due to its general criminal activity and was not because STG may have believed Petitioner was against the gang or perceived him as a member of a supposed particular social group of young men who are or may have been witnesses against STG.

In addition, as the agency reasonably determined, Petitioner’s testimony on why STG targeted him was ambiguous. For example, his explanations for why the gang targeted him ranged from his own gang resistance to the contention that STG members are angry people who hate him because they don’t have a lot going on in their own lives. *See Vasquez-Rodriguez v. Garland*, 7 F.4th 888, 893 (9th Cir. 2021) (upholding the agency’s determination that petitioner’s ambiguous testimony did not compel the conclusion that his political opinion was a reason for his persecution, and thus he did not establish eligibility for withholding of

removal).

Finally, the BIA did not err in finding that Petitioner is not eligible for protection under CAT. The record does not compel the conclusion that Petitioner may be tortured “by, or at the instigation of, or with the consent and acquiescence of, a public official acting in an official capacity or any other person acting in an official capacity.” *See* 8 C.F.R § 1208.18(a)(1); *Reyes-Reyes v. Ashcroft*, 384 F.3d 782, 787–88 (9th Cir. 2004).

PETITION DENIED.