

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 5 2022

FOR THE NINTH CIRCUIT

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

WALTER JOAQUIN DEL CID,

Petitioner,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 18-71581

Agency No. A094-321-060

MEMORANDUM\*

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

Submitted November 16, 2022\*\*  
Pasadena, California

Before: WARDLAW and W. FLETCHER, Circuit Judges, and KORMAN,\*\*  
District Judge.

Walter Joaquin Del Cid (“Del Cid”) petitions for review of a Board of  
Immigration Appeals (BIA) decision affirming an Immigration Judge’s (IJ) denial

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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).

\*\*\* The Honorable Edward R. Korman, United States District Judge for  
the Eastern District of New York, sitting by designation.

of his application for withholding of removal and protection under the Convention Against Torture (CAT). We have jurisdiction under 8 U.S.C. § 1252, and we deny the petition.

1. Substantial evidence supports the agency’s determination that Del Cid failed to demonstrate eligibility for withholding of removal. Del Cid “may establish eligibility for withholding of removal (A) by establishing a presumption of fear of future persecution based on past persecution, or (B) through an independent showing of clear probability of future persecution.” *Tamang v. Holder*, 598 F.3d 1083, 1091 (9th Cir. 2010); *see also* 8 C.F.R. § 1208.16(b).

The BIA properly concluded that Del Cid failed to demonstrate that the harm he had experienced—alleged attacks by gangs—bore a nexus to his membership in a protected group. Even assuming that Del Cid’s prior civil service qualifies him for membership in a “particular social group” for purposes of withholding of removal, substantial evidence supports the agency’s determination that Del Cid did not demonstrate the prior attacks occurred on account of his two years working in civil defense. Del Cid testified that he believes he was attacked due to his past military service, but there is no evidence that the persecutors were so motivated. Therefore, the record does not “compel[] a contrary conclusion” to the agency’s determination that Del Cid failed to demonstrate a nexus between his past persecution and military membership. *Duran-Rodriguez v. Barr*, 918 F.3d

1025, 1028 (9th Cir. 2019).

Substantial evidence also supports the agency's determination that Del Cid did not establish that it is "more probable than not that he would be persecuted upon return to" El Salvador. *Hoxha v. Ashcroft*, 319 F.3d 1179, 1185 (9th Cir. 2003). While Del Cid presents evidence that El Salvador has a widespread problem with gang violence, a generalized fear of violence and crime in a noncitizen's country of origin is generally "insufficient" to meet the "more likely than not standard." *Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010). The record shows no evidence that Del Cid has been recently threatened or that he would be harmed because he served in military recruitment nearly three decades ago.

Finally, the BIA did not err in holding that Del Cid did not establish a clear probability of future persecution based on family ties. General harm to family members "do[es] not serve to establish a risk of future persecution to the applicant himself, absent a pattern of persecution tied to the applicant personally." *Matter of A-K*, 24 I. & N. Dec. 275, 278 (BIA 2007) (citing *Arriaga-Barrientos v. U.S.I.N.S.*, 937 F.2d 411 (9th Cir. 1991)). While Del Cid's mother was robbed on two occasions, the record indicates those robberies were motivated by financial gain, rather than a specific threat to Del Cid. Substantial evidence therefore supports the agency's finding that Del Cid did not establish a likelihood of future persecution

based on family ties.

2. Substantial evidence supports the BIA's finding that Del Cid did not establish eligibility for CAT protection. In order to qualify for CAT protection, a noncitizen must show "that it is more likely than not that he will be tortured upon removal, and that the torture will be inflicted at the instigation of, or with the consent or acquiescence of, the government." *Arteaga v. Mukasey*, 511 F.3d 940, 948 (9th Cir. 2007). "Torture" is "an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment that do not amount to torture." 8 C.F.R. § 1208.18(a)(2). The three incidents of gang violence suffered by Del Cid do not rise to the level of torture. Even if they did, El Cid presents no evidence that the government of El Salvador acquiesced to those past attacks. Del Cid therefore did not carry his burden to demonstrate eligibility for CAT protection.

**PETITION DENIED.**