

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 7 2022

FOR THE NINTH CIRCUIT

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

BRAYAN ISAI ARANA AGUILAR,

No. 18-73397

Petitioner,

Agency No. A208-882-860

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted December 5, 2022**
San Francisco, California

Before: WATFORD and SANCHEZ, Circuit Judges, and BENITEZ,** District
Judge.

Brayan Isai Arana Aguilar (“Arana Aguilar”), a native and citizen of
Guatemala, petitions for review of a decision by the Board of Immigration Appeals

* 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 Roger T. Benitez, United States District Judge for the
Southern District of California, sitting by designation.

(“BIA”) affirming the immigration judge’s (“IJ”) order denying withholding of removal, asylum, and protection under the Convention Against Torture (“CAT”).¹ We have jurisdiction under 8 U.S.C. § 1252. Reviewing the agency’s factual findings for substantial evidence, *see Flores Molina v. Garland*, 37 F.4th 626, 632 (9th Cir. 2022), we deny the petition for review.

1. Substantial evidence supports the agency’s determination that even if it found Arana Aguilar’s proposed social group of “families of landowners” cognizable, he had not established that his membership in the group was a reason for his feared harm. *See Barajas-Romero v. Lynch*, 846 F.3d 351, 360 (9th Cir. 2017). The record supports the agency’s finding that Arana Aguilar’s great uncle did not target him because of his animus towards landowners in general or their families, but instead targeted him due to a personal dispute over land. Threats “grounded only in personal animosity” do not qualify for withholding of removal. *Zayas-Marini v. I.N.S.*, 785 F.2d 801, 806 (9th Cir. 1986); *see Zetino v. Holder*, 622 F.3d 1007, 1015-16 (9th Cir. 2010) (finding no nexus where petitioner did not present evidence that bandits attempted to steal his grandfather’s farm “on account of a protected ground” but instead testified that the farm was on valuable land).

Substantial evidence also supports the agency’s determination that Arana

¹ On appeal, Arana Aguilar does not contest the agency’s denial of his application for asylum.

Aguilar failed to establish past persecution. Arana Aguilar testified that his uncle threatened him twice and he was warned to stop the process of reclaiming his mother's land by two police officers and two unknown men on motorcycles. The only physical injury Arana Aguilar alleges he sustained was being kicked once in the leg by one of the motorcyclists, an injury he testified was "[n]ot very bad" and did not require any medical treatment. Taken together, these incidents do not compel a finding of past persecution. *See Hussain v. Rosen*, 985 F.3d 634, 647 (9th Cir. 2021) ("[u]nfulfilled threats are very rarely sufficient to rise to the level of persecution"); *Villegas Sanchez v. Garland*, 990 F.3d 1173, 1179 (9th Cir. 2021).²

2. Substantial evidence supports the agency's denial of CAT protection because Arana Aguilar failed to establish that he would be tortured by or with the acquiescence of a public official if returned to Guatemala. Arana Aguilar does not argue that the agency failed to consider all relevant evidence. *Cf. Parada v. Sessions*, 902 F.3d 901, 914-15 (9th Cir. 2018). Nor does he allege that the police officers threatened him with violence or torture. *Cf. Soto-Soto v. Garland*, 1 F.4th 655, 662-63 (9th Cir. 2021). Instead, he states that he believes the police are likely to torture him because the police warned him to stop the process of claiming the land and acquiesced to his uncle's other threats. Arana Aguilar has not presented

² Arana Aguilar does not argue that he meets the standard for withholding of removal absent a finding of past persecution.

evidence sufficient to compel a finding that public officials would acquiesce to his torture. *See Mairena v. Barr*, 917 F.3d 1119, 1126 (9th Cir. 2019) (“[O]ur task is to determine whether there is substantial evidence to support the BIA’s finding, not to substitute an analysis of which side in the factual dispute we find more persuasive.”) (internal quotation marks and citation omitted).

PETITION DENIED.