

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 16 2019

FOR THE NINTH CIRCUIT

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

VICTORIANO IXCOY-ITZEP,

No. 19-71146

Petitioner,

Agency No. A070-567-757

v.

MEMORANDUM*

WILLIAM P. BARR, Attorney General,

Respondent.

On Petition for Review of an Order of the
Immigration Judge

Submitted December 11, 2019**

Before: WALLACE, CANBY, and TASHIMA, Circuit Judges.

Victoriano Ixcoy-Itzep, a native and citizen of Guatemala, petitions for review of an immigration judge's ("IJ") determination under 8 C.F.R. § 1208.31(a) that he did not have a reasonable fear of persecution or torture in Guatemala and thus is not entitled to relief from his reinstated removal order. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the IJ's

* 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).

factual findings. *Andrade-Garcia v. Lynch*, 828 F.3d 829, 836 (9th Cir. 2016). We deny the petition for review.

In his opening brief, Ixcoy-Itzep does not challenge the IJ's determination that he failed to demonstrate a reasonable possibility of persecution on account of a protected ground. *See Corro-Barragan v. Holder*, 718 F.3d 1174, 1177 n.5 (9th Cir. 2013) (failure to contest issue in opening brief resulted in waiver).

Substantial evidence supports the IJ's determination that Ixcoy-Itzep failed to demonstrate a reasonable possibility of torture by or with the consent or acquiescence of the government if returned to Guatemala. *See Andrade-Garcia*, 828 F.3d at 836-37.

Ixcoy-Itzep's opposed motion for a stay of removal (Docket Entry No. 5) is denied as moot. The temporary stay of removal will terminate upon issuance of the mandate.

PETITION FOR REVIEW DENIED.