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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALEJANDRO CARRILLO-CARRILLO; ANASTASIA CARRILLO-GREGORIO; VITALINA ASUSENA CARRILLO-GREGORIO, Petitioners, v. MERRICK B. GARLAND, Attorney General, Respondent.	No. 19-71600 Agency Nos. A208-117-991 A208-117-992 A208-117-993 MEMORANDUM*

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

Submitted December 7, 2022**
San Francisco, California

Before: GRABER, WALLACH,*** and WATFORD, Circuit Judges.

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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 Evan J. Wallach, United States Circuit Judge for the U.S. Court of Appeals for the Federal Circuit, sitting by designation.

Petitioners Alejandro Carrillo-Carrillo, Anastasia Carrillo-Gregorio, and Vitalina Asusena Carrillo-Gregorio, natives and citizens of Guatemala, entered the United States in 2015 without immigration documents. They conceded removability but sought asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). The Board of Immigration Appeals ("BIA") dismissed their appeal from an immigration judge's ("IJ") denial of all forms of relief. Petitioners timely seek our review. We deny the petition.

1. We review the BIA's decisions regarding asylum and withholding of removal for substantial evidence. *Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1028 (9th Cir. 2019). "[W]e must uphold the agency['s] determination unless the evidence *compels* a contrary conclusion." *Id.* (emphasis added). Here, the BIA ruled that Petitioners did not establish past persecution or a well-founded fear of future persecution on account of one of the protected grounds enumerated in 8 U.S.C. § 1101(a)(42)(A). The IJ found that Petitioners showed they had experienced harm motivated only by gang members' pecuniary interests, and perhaps also the desire to recruit Mr. Carrillo-Carrillo, and thus did not satisfy the nexus requirement for eligibility for asylum or withholding of removal.

We are not compelled to conclude to the contrary. Petitioners produced no evidence showing that their persecutors targeted them on account of their Christian opposition to gangs, political opinion of opposing gangs, family relationship, or

gender. The evidence therefore does not rise to "a reason," much less "one central reason," for Petitioners' alleged persecution. *See Barajas-Romero v. Lynch*, 846 F.3d 351, 358–59 (9th Cir. 2017) (discussing "a reason" requirement for withholding of removal eligibility); *Aden v. Wilkinson*, 989 F.3d 1073, 1084 (9th Cir. 2021) (discussing "one central reason" requirement for asylum eligibility). Regarding their assertion of a fear of future persecution on account of gender, Petitioners cite in support only country reports of generalized threats of violence against women in Guatemala. But these reports do not contain specific, individualized threats that are required as objective evidence for eligibility. *See Kumar v. Gonzales*, 444 F.3d 1043, 1054 (9th Cir. 2006).

2. Petitioners' CAT claim rested on the argument that corruption is so endemic in Guatemala that "one can hardly discern between the government and a criminal," and thus any likelihood Petitioners would face criminal conduct in the future in Guatemala would be with the acquiescence of the government. The BIA denied relief under CAT due to an absence of past torture, the generalized nature of Petitioners' claim, and the lack of evidence that governmental authorities would fail to protect them. We review for substantial evidence the agency's CAT determination, *see Lalayan v. Garland*, 4 F.4th 822, 840 (9th Cir. 2021), and substantial evidence supports the BIA's determination that Petitioners did not experience torture and failed to establish the state action necessary for CAT relief.

The evidence of attacks presented by Petitioners does not satisfy the definition of torture under CAT—the attacks against Mr. Carrillo-Carrillo were short and not extreme forms of cruel and inhuman treatment, 8 C.F.R. § 208.18(a)(2), they did not exhibit specific intent to inflict severe physical or mental pain or suffering, 8 C.F.R. § 208.18(a)(5), and Mr. Carrillo-Carrillo was never in the custody or control of his attackers, 8 C.F.R. § 208.18(a)(6). Threats, such as extortion upon threat of violence, while deplorable and illegal, do not, without more, rise to the level of torture. *See Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1029–30 (9th Cir. 2019). Considering the absence of past torture, we are not compelled to conclude that it is more likely than not that Petitioners would be tortured if removed to Guatemala. *See Santos-Ponce v. Wilkinson*, 987 F.3d 886, 891 (9th Cir. 2021).

Petitioners also have not produced evidence demonstrating that government officials at any level acquiesced in their alleged torture, other than speculation that they did so because local police failed to investigate the attacks they reported. Mr. Carrillo-Carrillo, however, did not know the identity of his attackers and bases his belief that the police failed to investigate on the fact that he never saw the police in his village. Although Petitioners assert that the Guatemalan government did not take their complaints seriously because they are indigenous and presented country reports indicating that Guatemala generally does not provide indigenous

communities with adequate public services, this evidence does not compel the conclusion that government officials were willfully blind to or unwilling to oppose Petitioners' particular mistreatment.

Given this record, there is substantial evidence for the BIA's determination, and we affirm the denial of relief under CAT.

PETITION DENIED.