

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MAR 18 2019

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

MARTIN UDODIRI NWOGU,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 14-71262

Agency No. A072-940-388

MEMORANDUM*

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

Submitted March 12, 2019**

Before: LEAVY, BEA, and N.R. SMITH, Circuit Judges

Martin Udodiri Nwogu, a native and citizen of Nigeria, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the

* 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).

agency's factual findings. *Garcia-Milian v. Holder*, 755 F.3d 1026, 1031 (9th Cir. 2014). We deny the petition for review.

Nwogu has waived any challenge to the agency's determination that he failed to demonstrate past persecution. *See Rizk v. Holder*, 629 F.3d 1083, 1091 n. 3 (9th Cir. 2011) (a petitioner waives an issue by failing to raise it in the opening brief).

Nwogu fears harm in Nigeria based on his family membership and imputed political opinion. Substantial evidence supports the agency's determination that Nwogu failed to establish an objectively reasonable fear of future persecution in Nigeria. *See Nagoulko v. INS*, 333 F.3d 1012, 1018 (9th Cir. 2003) (petitioner's claims "too speculative to be credited as a basis for fear of future persecution"). Thus, Nwogu's asylum claim fails.

In this case, because Nwogu failed to establish eligibility for asylum, he failed to establish eligibility for withholding of removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

We reject Nwogu's contention that the BIA failed to consider evidence as to his CAT claim. *See Najmabadi v. Holder*, 597 F.3d 983, 990 (9th Cir. 2010) (agency need not "write an exegesis on every contention" (citation and internal quotation marks omitted)). Nwogu does not otherwise challenge the agency's denial of his CAT claim. *See Rizk*, 629 F.3d at 1091 n. 3. Thus, Nwogu's CAT

claim fails.

PETITION FOR REVIEW DENIED.