

FILED

NOT FOR PUBLICATION

AUG 23 2019

UNITED STATES COURT OF APPEALS

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

FOR THE NINTH CIRCUIT

JOSE ASCENSION SANCHEZ-
MENDIVIL,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 15-71614

Agency No. A095-696-553

MEMORANDUM*

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

Submitted August 7, 2019**

Before: THOMAS, Chief Judge, McKEOWN and HAWKINS, Circuit Judges.

Jose Ascension Sanchez-Mendivil, a native and citizen of Mexico, petitions for review of the Board of Immigrations Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for relief pursuant to the Convention Against Torture ("CAT"), as well as his request

* 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).

for voluntary departure. Our jurisdiction is governed by 8 U.S.C. § 1252. We deny in part and dismiss in part Sanchez-Mendivil’s petition.

We review for substantial evidence the agency’s factual findings regarding Sanchez-Mendivil’s claim for relief under CAT. *Singh v. Whitaker*, 914 F.3d 654, 658 (9th Cir. 2019). We determine that he has not presented evidence to compel a decision in his favor. Though members of his family suffered violence at the hands of gangs, Sanchez-Mendivil testified that he has never been threatened or harmed by anyone in Mexico. This testimony does not demonstrate that he is likely to face torture upon his return, much less that the Mexican government would acquiesce in any such torture. See *Zheng v. Holder*, 644 F.3d 829, 835–36 (9th Cir. 2011) (holding that speculative claims of torture are insufficient to afford relief).

We lack jurisdiction to review the discretionary determination, made by the IJ and adopted by the BIA, that Sanchez-Mendivil is ineligible for voluntary departure due to the adverse factors of his prior convictions outweighing any positive factors. 8 U.S.C. § 1229c(f); *Esquivel-Garcia v. Holder*, 593 F.3d 1025, 1030 (9th Cir. 2010).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.