

FILED

AUG 28 2019

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDDY BASILLO-ARROYO, AKA Eddy  
Lopez,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 16-71947

Agency No. A205-716-540

MEMORANDUM\*

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

Submitted August 7, 2019\*\*

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

Eddy Basillo-Arroyo, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT").

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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).

We review de novo questions of law, *Cerezo v. Mukasey*, 512 F.3d 1163, 1666 (9th Cir. 2008), except to the extent that deference is owed to the BIA’s interpretation of the governing statutes and regulations, *Simeonov v. Ashcroft*, 371 F.3d 532, 535 (9th Cir. 2004). We review for substantial evidence the agency’s factual findings. *Shrestha v. Holder*, 590 F.3d 1034, 1039 (9th Cir. 2010). Our jurisdiction is governed by 8 U.S.C. § 1252, and we deny in part and dismiss in part the petition for review.

Basillo-Arroyo does not challenge the IJ and BIA’s determination that his asylum application was untimely in his opening brief. Thus, this issue is waived, and we do not reach the merits of his asylum claim. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) (“[A]rguments not raised by a party in its opening brief are deemed waived.”).

Substantial evidence supports the BIA’s determination that Basillo-Arroyo failed to establish he would be persecuted on account of a protected ground. *See Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010) (holding that an applicant’s “desire to be free from harassment by criminals motivated by theft or random violence by gang members bears no nexus to a protected ground”). Thus, Basillo-Arroyo’s withholding of removal claim fails.

Basillo-Arroyo failed to challenge the IJ's denial of CAT relief before the BIA. Thus, this issue is unexhausted. *See Baron v. Ashcroft*, 358 F.3d 674, 677–78 (9th Cir. 2004) (holding that courts lack jurisdiction to review claims not presented to the agency).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**