

FILED

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JORGE LUIS ACEVEDO,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 16-73116

Agency No. A088-447-851

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.

Jorge Luis Acevedo (“Acevedo”), a native and citizen of Mexico, petitions for review of a Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s decision denying his application for withholding of removal under the Immigration and Nationality Act (“INA”) and

* 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).

protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252 and we deny the petition.

Whether a group constitutes a “particular social group” is a question of law that we review *de novo*, *Perdomo v. Holder*, 611 F.3d 662, 665 (9th Cir. 2010), but we defer to the BIA’s interpretation of 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. *See Silva-Pereira v. Lynch*, 827 F.3d 1176, 1184 (9th Cir. 2016).

Substantial evidence supports the agency’s determination that Acevedo has not established that he would be persecuted on account of a protected ground. *See Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010) (petitioner’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”). Otherwise, the agency’s determination that Acevedo failed to establish a cognizable social group is supported. *See Reyes v. Lynch*, 842 F.3d 1125, 1131 (9th Cir. 2016) (in order to demonstrate membership in a particular group, “[t]he applicant must ‘establish that the group is (1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question’” (quoting *Matter of M-E-V-G-*, 26 I. & N. Dec. 227, 237 (BIA

2014))). Thus, in the absence of nexus or a protected ground, Acevedo's withholding claim fails. In light of our conclusion, we reject Acevedo's contention that the case should be remanded pursuant to *Barajas-Romero v. Lynch*, 846 F.3d 351 (9th Cir. 2017).

Substantial evidence supports the agency's denial of CAT relief. The record does not compel the conclusion that Acevedo is "more likely than not" to be tortured by or with the consent or acquiescence of the government if he returns to Mexico. *See* 8 C.F.R. § 1208.16(c)(2); *see also Aden v. Holder*, 589 F.3d 1040, 1047 (9th Cir. 2009). Thus, Acevedo's CAT claim also fails.

PETITION FOR REVIEW DENIED.