

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 20 2020

FOR THE NINTH CIRCUIT

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

FELIPE CLAVEL GONZALEZ, AKA
Felipe Clavel Gonzalez,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 16-73979

Agency No. A200-975-089

MEMORANDUM*

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

Submitted April 7, 2020**

Before: TASHIMA, BYBEE, and WATFORD, Circuit Judges.

Felipe Clavel Gonzalez, 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 decision denying his application for withholding of removal and relief under the Convention Against Torture ("CAT"). We have jurisdiction

* 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).

under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006). We review de novo questions of law, *Cerezo v. Mukasey*, 512 F.3d 1163, 1166 (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 deny the petition for review.

Substantial evidence supports the agency’s finding that being beaten and robbed of his wallet at knifepoint, and hearing an unknown party threaten his brother at his family’s home, do not establish that Clavel Gonzalez suffered past persecution or that he likely will be subject to future persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003) (harassment, threats, and a beating unconnected with any particular threat did not compel finding of past persecution); *see also Mendez-Gutierrez v. Gonzales*, 444 F.3d 1168, 1172 (9th Cir. 2006) (“vague and conclusory allegations” regarding threats “are clearly insufficient to support a finding of a well-founded fear of future persecution”).

The agency did not err in determining that Clavel Gonzalez’s proposed particular social group is not cognizable. *See Reyes v. Lynch*, 842 F.3d 1125, 1131 (9th Cir. 2016) (“The 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’” (citation

omitted)); *see also* *Barbosa v. Barr*, 926 F.3d 1053, 1059-60 (9th Cir. 2019) (individuals “returning to Mexico [from] the United States [who] are believed to be wealthy” do not constitute a particular social group (alterations in original)); *Santos-Lemus v. Mukasey*, 542 F.3d 738, 745-46 (9th Cir. 2008) (proposed group of “young men in El Salvador resisting gang violence” does not constitute a cognizable particular social group), *abrogated in part by* *Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1093 (9th Cir. 2013).

Substantial evidence supports the agency’s conclusion that Clavel Gonzalez otherwise failed to establish that he would be persecuted on account of a protected ground. *See* *Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010) (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, Clavel Gonzalez’s withholding of removal claim fails.

Substantial evidence supports the agency’s denial of CAT relief because Clavel Gonzalez failed to show that it is more likely than not that he will be tortured by or with the consent or acquiescence of the government if returned to Mexico. *See* *Zheng v. Holder*, 644 F.3d 829, 835-36 (9th Cir. 2011) (possibility of torture too speculative).

PETITION FOR REVIEW DENIED.