

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NOV 21 2022

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

JEANNEL DELNE,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 17-72206

Agency No. A209-760-595

MEMORANDUM*

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

Submitted November 15, 2022**

Before: CANBY, CALLAHAN, and BADE, Circuit Judges.

Jeannel Delne, a native and citizen of Haiti, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his applications for asylum, withholding of removal, and protection 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. *Conde Quevedo v. Barr*, 947 F.3d 1238, 1241 (9th Cir. 2020). We deny the petition for review.

As to asylum, because Delne does not challenge the agency's dispositive determination that he firmly resettled in another country, this issue is waived. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013) (issues not specifically raised and argued in a party's opening brief are waived).

As to withholding of removal, substantial evidence supports the agency's determination that Delne failed to establish he was persecuted on account of a protected ground. *See Garcia-Milian v. Holder*, 755 F.3d 1026, 1031-33 (9th Cir. 2014) (record did not compel the conclusion that the petitioner was persecuted on account of an imputed political opinion). Substantial evidence also supports the agency's determination that Delne failed to show a clear probability of future persecution. *See, e.g., Nagoulko v. INS*, 333 F.3d 1012, 1018 (9th Cir. 2003) (feared persecution "too speculative" to support asylum claim). Thus, Delne's withholding of removal claim fails.

Substantial evidence supports the agency's denial of CAT protection because Delne failed to show it is more likely than not he will be tortured by or with the consent or acquiescence of the government if returned to Haiti. *See Aden v. Holder*, 589 F.3d 1040, 1047 (9th Cir. 2009).

To the extent Delne contends the agency erred or violated due process, we reject the contentions as unsupported by the record.

PETITION FOR REVIEW DENIED.