NOT FOR PUBLICATION

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARLON RIVERA-RONQUILLO, Petitioner, v. MERRICK B. GARLAND, Attorney General, Respondent.	No. 17-72751 Agency No. A070-664-079 MEMORANDUM[*]

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

Submitted December 7, 2022[**]
San Francisco, California

Before: NGUYEN and SANCHEZ, Circuit Judges, and BOUGH,[***] District Judge.

Marlon David Rivera-Ronquillo ("Rivera-Ronquillo") and Norma Aracely Donis Tejada ("Donis Tejada") (together, Petitioners), natives and citizen of

[*] 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).

[***] The Honorable Stephen R. Bough, United States District Judge for the Western District of Missouri, sitting by designation.

Guatemala, petition for review of a decision by the Board of Immigration Appeals ("BIA") affirming the immigration judge's ("IJ") order denying Rivera-Ronquillo's application for asylum, withholding of removal, cancellation of removal, protection under the Convention Against Torture ("CAT"), and relief under the Nicaraguan Adjustment and Central American Relief Act ("NACARA"), as well as Donis Tejada's separate application for cancellation of removal.[1] We have jurisdiction under 8 U.S.C. §1252 and we deny the petition for review.

1. Substantial evidence supports the agency's determination that Petitioners have not suffered harm rising to the level of past persecution. Rivera-Ronquillo testified that he received verbal and written threats from the Guatemalan government and guerilla groups, but the threats were never carried out. Rivera-Ronquillo offered no evidence that these threats caused suffering or harm. *Lim v. I.N.S.*, 224 F.3d 929, 936 (9th Cir. 2000) ("Threats standing alone . . . constitute past persecution . . . only when the threats are so menacing as to cause significant actual 'suffering or harm.'"). The record does not compel the conclusion that these threats rose to the level of past persecution.

2. Substantial evidence supports the agency's determination that Rivera-Ronquillo failed to establish a nexus to a protected ground. Rivera-Ronquillo

[1] On appeal, Petitioners challenge the denial of Rivera-Ronquillo's application for asylum, relief under NACARA, and Donis Tejada's application for cancellation of removal.

testified that he feared returning to Guatemala due to issues with "kidnapping, the gangs, [and] the extortion." But a fear of "random violence by gang members bears no nexus to a protected ground." *Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010).

3. We lack jurisdiction to review the agency's discretionary denial of Rivera-Ronquillo's NACARA application and Donis Tejada's application for cancellation of removal. *Monroy v. Lynch*, 821 F.3d 1175, 1177 (9th Cir. 2016). However, we retain jurisdiction to review the due process claims raised in the petition. *Id.*

The introduction of hearsay statements from two police reports did not deprive Petitioners of a fundamentally fair hearing. *See Espinoza v. I.N.S.*, 45 F.3d 308, 310 (9th Cir. 1995). Donis Tejada admitted at the hearing to prior statements she made in one of the police reports, and admitted to the content described in the second police report. The IJ made several attempts to obtain the presence of another witness interviewed in one of the police reports, but she did not wish to testify. Therefore, the introduction of these police reports did not violate Petitioners' due process rights. *See Hammad v. Holder*, 603 F.3d 536, 546 (9th Cir. 2010); *Angov v. Lynch*, 788 F.3d 893, 899 (9th Cir. 2015).

The IJ also did not violate Petitioners' due process rights when she indicated at the close of the hearing that she intended to grant cancellation of removal relief

but ultimately denied such relief in a written decision. Petitioners fail to establish how this statement prevented them from reasonably presenting their case. *Colmenar v. I.N.S.*, 210 F.3d 967, 971 (9th Cir. 2000); *Cinapian v. Holder*, 567 F.3d 1067, 1074 (9th Cir. 2009).

PETITION DENIED.