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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAFAEL ROJAS ALCANTAR, Petitioner, v. MATTHEW G. WHITAKER, Acting Attorney General, Respondent.	No. 17-73154 Agency No. A205-467-215 MEMORANDUM*

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

Submitted December 17, 2018**

Before: WALLACE, SILVERMAN, and McKEOWN, Circuit Judges.

Rafael Rojas Alcantar, a native and citizen of Mexico, petitions for review of the Board of Immigrations Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for withholding of removal and relief under the Convention Against Torture ("CAT"). We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We review questions of law de novo, *Cerezo v. Mukasey*, 512 F.3d 1163, 1166 (9th Cir. 2008), except to the extent that deference is owed to the BIA's determination 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. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006). We deny the petition for review.

The BIA considered and agreed with the IJ's finding that Rojas failed to establish that returning Mexicans, who are targeted due to perceived wealth after a long residence in the United States, was a cognizable social group. The BIA did not err in this conclusion. *See Ramirez-Munoz v. Lynch*, 816 F.3d 1226, 1229 (9th Cir. 2016) (concluding that "imputed wealthy Americans" returning to Mexico does not constitute a particular social group); *see also Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1151-52 (9th Cir. 2010) ("returning Mexicans from the United States" is too broad to qualify as a cognizable social group). We find no error in the BIA's rejection of Rojas's "pochos" argument, *see Matter of J-Y-C-*, 24 I. & N. Dec. 260, 261 n.1 (BIA 2007) (issues not raised to the IJ are not properly before the BIA on appeal), and we reject Rojas's contention that the BIA erred in its social group assessment. Further, substantial evidence supports the agency's finding that Rojas did not establish that a gang would view him as expressing a political opinion. *See Santos-Lemus v. Mukasey*, 542 F.3d 738, 747 (9th Cir. 2008)

(a general aversion to gangs did not constitute a political opinion for asylum purposes) *abrogated on other grounds by Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1093 (9th Cir. 2013) (en banc). Thus, Rojas's withholding of removal claim fails.

Finally, substantial evidence also supports the agency's denial of CAT relief because Rojas failed to show it is more likely than not that he would be tortured if he returns to Mexico. *See Zheng v. Holder*, 644 F.3d 829, 835-36 (9th Cir. 2011) (possibility of torture too speculative). We reject Rojas's contention that the agency failed to consider arguments and evidence or that the agency failed to explain its decision. *See Najmabadi v. Holder*, 597 F.3d 983, 990 (9th Cir. 2010).

PETITION FOR REVIEW DENIED.