

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 25 2022

FOR THE NINTH CIRCUIT

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

LUIS ABRAHAM HERNANDEZ PEREZ,

No. 17-73498

Petitioner,

Agency No. A079-777-515

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

On Petition for Review of an Order of an Immigration Judge

Submitted October 21, 2022**
Pasadena, California

Before: GOULD, WATFORD, and HURWITZ, Circuit Judges.

* 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).

Luis Abraham Hernandez Perez, a native and citizen of Mexico, petitions for review of a negative reasonable fear determination by an Immigration Judge (“IJ”) related to his Convention Against Torture (“CAT”) claim during reinstatement of removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. “We review the IJ’s determination that the alien did not establish a reasonable fear of persecution or torture for substantial evidence.” *Bartolome v. Sessions*, 904 F.3d 803, 811 (9th Cir. 2018). For the reasons below, we deny Hernandez Perez’s petition.

1. Hernandez Perez argues that substantial evidence does not support the IJ’s determination that he did not meet the requirements for relief under the CAT, specifically that the torture must be “inflicted by or at the instigation of or with the consent or acquiescence of a public official acting in an official capacity or other person acting in an official capacity.” 8 C.F.R. § 208.18(a)(1). We hold that substantial evidence supports the IJ’s determination.

To obtain protection under the CAT, a petitioner “ha[s] the burden to prove that it is more likely than not that (1) [h]e, in particular, would be (2) subject to harm amounting to torture (3) by or with the acquiescence of a public official, if removed.” *Garcia v. Wilkinson*, 988 F.3d 1136, 1147 (9th Cir. 2021). Hernandez Perez’s testimony undercuts his own claim, as he did not report past instances of torture to the police in Mexico and indicated that public officials have not instigated or encouraged harm against him. When asked about his belief that

Mexican public officials would not protect him, he referred to a general belief that Mexican public officials were corrupt and ineffective. But this general belief does not meet the burden placed upon a petitioner to be potentially eligible for CAT relief. As we have stated, “a general ineffectiveness on the government’s part to investigate and prevent crime will not suffice to show acquiescence.” *Andrade-Garcia v. Lynch*, 828 F.3d 829, 836 (9th Cir. 2016). Applying the substantial evidence standard, the record does not compel us to conclude that Mexican public officials will acquiesce or consent to any future harm that Hernandez Perez might face.

PETITION DENIED.