

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 21 2019

FOR THE NINTH CIRCUIT

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

WALTER CASTELLANOS-MENDOZA,

No. 18-70121

Petitioner,

Agency No. A205-321-000

v.

MEMORANDUM*

WILLIAM P. BARR, Attorney General,

Respondent.

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

Submitted February 19, 2019**

Before: FERNANDEZ, SILVERMAN, and WATFORD, Circuit Judges.

Walter Castellanos-Mendoza, a native and citizen of Guatemala, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing an appeal from an immigration judge's decision denying his application for asylum, cancellation of removal, withholding of removal, and relief under the

* 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).

Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008). We deny the petition for review.

While Castellanos-Mendoza contends returning to Guatemala would cause him hardship, he failed to challenge the agency’s dispositive conclusion that he failed to establish continuous physical presence for cancellation of removal. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-1080 (9th Cir. 2013) (issues not specifically raised and argued in a party’s opening brief are waived).

The record does not compel the conclusion that Castellanos-Mendoza established changed circumstances to excuse his untimely asylum application. *See* 8 C.F.R. § 1208.4(a)(4). Thus, Castellanos-Mendoza’s asylum claim fails.

In his opening brief, Castellanos-Mendoza does not challenge the agency’s determination that he failed to establish eligibility for withholding of removal or CAT relief. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079 (9th Cir. 2013) (issues not specifically raised and argued in a party’s opening brief are waived).

We do not consider the materials Castellanos-Mendoza references in his opening brief that are not part of the administrative record. *See Fisher v. INS*, 79 F.3d 955, 963-64 (9th Cir. 1996).

PETITION FOR REVIEW DENIED.