

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 13 2022

FOR THE NINTH CIRCUIT

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

JHONATAN ANTONIO VASQUEZ-  
SEGOVIA,

Petitioner,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 18-70623

Agency No. A206-737-059

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.

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\* 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.

Jhonatan Antonio Vasquez-Segovia, a native and citizen of El Salvador, petitions for review of a decision by the Board of Immigration Appeals (“BIA”) affirming the immigration judge’s (“IJ”) order denying asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. Reviewing the agency’s factual findings for substantial evidence and its legal conclusions de novo, *see Flores Molina v. Garland*, 37 F.4th 626, 632 (9th Cir. 2022), we deny the petition for review.

We agree that Vasquez-Segovia’s proposed particular social group, “Salvadorian men taking concrete steps to avoid gang recruitment and gang violence which the government of El Salvador can not and/or is not willing to control,” is not cognizable here. As “concrete steps,” Vasquez-Segovia points to the fact that when gang members tried to recruit him, he “would ignore them and continue on [his] way.” Such ordinary avoidance does not place Vasquez-Segovia in a discrete or socially distinct group. *C.f. Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1092 (9th Cir. 2013) (holding that “people who testify against gang members in criminal proceedings” is a cognizable social group); *Pirir-Boc v. Holder*, 750 F.3d 1077, 1084-85 (9th Cir. 2014) (remanding to the BIA to consider whether a particular social group of “persons taking concrete steps to oppose gang membership and gang authority” was cognizable under *Henriquez-Rivas* where petitioner assisted brother in defecting from a gang).

And substantial evidence supports the agency's determination that Vasquez-Segovia is not entitled to CAT relief because he has not shown that he is more likely than not to suffer torture in El Salvador. *See* 8 C.F.R. § 1208.17(a). Vasquez-Segovia was not subject to torture in the past. Nor does the record evidence compel a conclusion that the government would acquiesce to gang torture upon his return.

**PETITION DENIED.**