

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 5 2020

FOR THE NINTH CIRCUIT

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

WILTO FENESCAT,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 18-71564

Agency No. A209-865-222

MEMORANDUM\*

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

Submitted February 4, 2020\*\*

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

Wilto Fenescat, a native and citizen of Haiti, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). Our jurisdiction is governed by 8 U.S.C. § 1252. We deny in part and dismiss in

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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).

part the petition for review.

As to asylum and withholding of removal, Fenescat fails to challenge the agency's adverse credibility determination. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013) (issues not specifically raised and argued in a party's opening brief are waived). Fenescat also fails to challenge the BIA's determination that he waived any challenge to the IJ's denial of CAT relief. *Id.* Thus, we deny the petition for review as to Fenescat's asylum, withholding of removal, and CAT claims.

In light of this disposition, we need not reach Fenescat's contentions regarding firm resettlement. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (courts and agencies are not required to decide issues unnecessary to the results they reach).

We lack jurisdiction to consider Fenescat's due process contentions regarding his credible fear interview notes and IJ bias because he failed to raise these claims to the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004).

Fenescat's motion to supplement the record (Docket Entry No. 14) is denied as unnecessary.

The government's request to summarily deny the petition for review, as set forth in the answering brief, is denied as moot.

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**