

**FILED**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FEB 17 2023

FOR THE NINTH CIRCUIT

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

TZEZEL BAGHOYAN,

Petitioner,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 21-1111

Agency No. A062-904-438

MEMORANDUM\*

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

Submitted February 15, 2023\*\*  
San Francisco, California

Before: S.R. THOMAS, MILLER, and SANCHEZ, Circuit Judges.

Tzezel Baghoyan (“Baghoyan”) petitions for review of the denial by the Board of Immigration Appeals (“Board”) of his appeal from the decision of an Immigration Judge (“IJ”) that found him ineligible for asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). We 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 and deny in part his petition.

1. The IJ found Baghoyan's application for asylum statutorily time barred. *See* 8 U.S.C. § 1158(a)(2)(B); 8 C.F.R. § 1208.4(a) (2021);<sup>1</sup> *Alquijay v. Garland*, 40 F.4th 1099, 1100–01 (9th Cir. 2022). The IJ further determined that the particularly serious crime bar applied to Baghoyan's claim for withholding of removal. *See* 8 U.S.C. § 1158(b)(2)(A)(ii); *Hernandez v. Garland*, 52 F.4th 757, 765 (9th Cir. 2022). Baghoyan did not meaningfully appeal either of those bars to the Board. We therefore lack jurisdiction over them. *See* 8 U.S.C. § 1252(d)(1); *Vasquez-Borjas v. Garland*, 36 F.4th 891, 900 (9th Cir. 2022).

2. Notwithstanding such statutory bars to asylum and withholding of removal, a noncitizen may merit deferral of removal under the CAT. *See* 8 C.F.R. § 1208.17(a); *Ruiz-Colmenares v. Garland*, 25 F.4th 742, 745 n.1 (9th Cir. 2022). The IJ denied Baghoyan deferral of removal, and the Board affirmed. Baghoyan did not meaningfully contest this decision in his petition before this Court, thus waiving the claim. *See Collins v. City of San Diego*, 841 F.2d 337, 339 (9th Cir. 1998). Regardless, substantial evidence supported the IJ's (and the Board's) finding that, among other deficiencies in his claim, Baghoyan would not face extreme harm amounting to torture upon return to Armenia. *See* 8 C.F.R.

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<sup>1</sup> All other citations to regulations are to the same year.

§ 1208.18(a)(2). We therefore deny Baghoyan’s petition as to CAT deferral.<sup>2</sup> *See* 8 U.S.C. § 1252(b)(4)(B); *Dai v. Garland*, 9 F.4th 1142, 1144–45 (9th Cir. 2021) (per curiam).

**PETITION DISMISSED IN PART; PETITION DENIED IN PART.**

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<sup>2</sup> We also dismiss as moot Baghoyan’s motion to stay removal.