

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 10 2023

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

GABRIEL ARROYO MONTIEL,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 21-309

Agency No. A077-219-976

MEMORANDUM*

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

Submitted March 8, 2023**
Pasadena, California

Before: CALLAHAN, FORREST, H.A. THOMAS, Circuit Judges.

Gabriel Arroyo Montiel petitions for review of an order of the Board of Immigration Appeals upholding an immigration judge's denial of withholding of removal and protection under the Convention Against Torture. We have jurisdiction under 8 U.S.C. § 1252(a)(1). *See Andrade-Garcia v. Lynch*, 828 F.3d 829, 833 (9th Cir. 2016). We deny the petition.

* 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 adverse credibility determination is supported by substantial evidence. *See Alam v. Garland*, 11 F.4th 1133, 1136–37 (9th Cir. 2021) (en banc). Arroyo Montiel’s testimony that he feared removal to Mexico based on incidents that allegedly occurred in 1995 and 1996 was inconsistent with a written statement he gave at the border in 1998—after the alleged incidents—in which he stated that he did not fear removal to Mexico and that his motive for coming to the United States was to seek employment. Arroyo Montiel claims that the written statement does not accurately reflect his responses to the officers’ questions. But the immigration judge was entitled to credit the written statement over Arroyo Montiel’s testimony because it bore sufficient indicia of reliability, including that Arroyo Montiel had initialed each page and that one of the officers certified that Arroyo Montiel had been read the statement in Spanish before he signed and initialed it. *See Mukulumbutu v. Barr*, 977 F.3d 924, 926 (9th Cir. 2020).

Absent Arroyo Montiel’s discredited testimony, the remaining evidence does not compel the conclusion that he is entitled to withholding of removal or protection under the Convention Against Torture.

PETITION DENIED.