

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 17 2023

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

Sarahi Maldinero Ramos; Genisis Adriana
Maldinero Ramos,

Petitioners,

v.

Merrick B. Garland, U.S. Attorney
General,

Respondent.

No. 21-595

Agency Nos. A208-895-224
A208-895-225

MEMORANDUM*

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

Submitted March 15, 2023**
Pasadena, California

Before: TASHIMA, CHRISTEN, and MILLER, Circuit Judges.

Lead Petitioner Sarahi Maldinero Ramos and Derivative Petitioner

Genisis Adriana Maldinero Ramos, natives and citizens of El Salvador, petition for review of the Board of Immigration Appeals' (BIA) order dismissing their appeal from an immigration judge's (IJ) decision denying their applications for asylum, withholding of removal, and protection pursuant to the Convention

* 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).

Against Torture (CAT). We assume the parties' familiarity with the facts and procedural history. We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny the petition for review.

We review questions of law de novo and the agency's factual findings for substantial evidence. *See Bhattarai v. Lynch*, 835 F.3d 1037, 1042 (9th Cir. 2016). The BIA denied Petitioners' claims for asylum and withholding after concluding that they had not shown that those who harmed them were motivated by their membership in the proposed particular social group of "victims and . . . witnesses of criminal activity who have cooperated with law enforcement" or their political opinion of "opposition to corruption and criminality." *See Barajas-Romero v. Lynch*, 846 F.3d 351, 358–60 (9th Cir. 2017) (explaining that the asylum statute requires that a protected ground "was or will be *at least one central reason* for persecuting the applicant," while the withholding statute requires applicants to demonstrate that their "life or freedom would be threatened for *a reason*" such as race, religion, or political opinion (citations omitted)). The BIA's conclusion that neither nexus requirement was satisfied is supported by substantial evidence because there is no indication in the record that the Mara 18 gang members who threatened Petitioners knew that Lead Petitioner had contacted the police or was cooperating with law enforcement, and because the only apparent motive for the gang members' threats was their desire to recruit Lead Petitioner. *See, e.g., Macedo Templos v. Wilkinson*, 987 F.3d 877, 883 (9th Cir. 2021) (concluding that the less

demanding nexus requirement for withholding was not met when the applicant opined that criminals victimized him because he refused to comply with their demands); *Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010) (holding that an applicant’s “desire to be free from harassment by criminals motivated by theft or random violence by gang members bears no nexus to a protected ground”). Because the agency’s finding that Petitioners failed to meet the nexus requirement for asylum or withholding is supported by substantial evidence, we need not and do not address the agency’s findings as to whether the threats rose to the level of persecution.

The agency denied Petitioners’ CAT claim after concluding that Petitioners had not demonstrated that they would be tortured with the consent or acquiescence of a government official if they returned to El Salvador. *See* 8 C.F.R. §§ 1208.16(c)(2), 1208.18(a)(7). Lead Petitioner argues that the government is unable to protect her, but the BIA’s determination that the police did not acquiesce in her torture is supported by substantial evidence. *See Garcia-Milian v. Holder*, 755 F.3d 1026, 1033 (9th Cir. 2014). Although Lead Petitioner reported the gang members’ threats to the police, she could not identify the gang members, and the police told her that they could not take a report without more evidence because there was “not enough proof.” *See Barajas-Romero*, 846 F.3d at 363 (“CAT relief is unavailable, despite a likelihood of torture, without evidence that the police are unwilling or unable to

oppose the crime, not just that they are unable to solve it, *as when the torturers cannot be identified.*” (emphasis added)).

PETITION DENIED.