

NOT FOR PUBLICATION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

MARCELO CONTRERAS OROSCO,

No. 21-70325

Petitioner,

Agency No. A205-720-059

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted December 9, 2022**
San Francisco, California

Before: NGUYEN and KOH, Circuit Judges, and BOUGH,** District Judge.

Marcelo Contreras Orosco (“Contreras”), a native and citizen of Mexico,
petitions for review of a decision by the Board of Immigration Appeals (“BIA”)

* 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.

affirming the immigration judge’s (“IJ”) order denying 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.

1. Reviewing the agency’s legal conclusion de novo, we agree that Contreras’ proposed particular social group—“persons perceived wealthy . . . who resided in the United States for significant periods of time”—is not cognizable. *See Barbosa v. Barr*, 926 F.3d 1053, 1059 (9th Cir. 2019). The Ninth Circuit has previously rejected similar proposed social groups based on return to a home country. *See Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1151–52 (9th Cir. 2010) (finding proposed social group of “returning Mexicans from the United States” too broad to qualify as cognizable); *Ramirez-Munoz v. Lynch*, 816 F.3d 1226, 1229 (9th Cir. 2016) (rejecting proposed social group of “those returning home who appear to be American”). And substantial evidence supports the agency’s conclusion that individuals in his proposed category are not perceived as a particular and distinct group in Mexico. *See Reyes v. Lynch*, 842 F.3d 1125, 1131–32, 1135 (9th Cir. 2016).

Moreover, there is no evidence of nexus between Contreras’ proposed particular social group and any future harm he may face in Mexico. *See* 8 U.S.C. §

1231(b)(3)(A). Contreras has never suffered harm in Mexico, so he bears the burden of showing that membership in his proposed social group will more likely than not cause him future harm. *See* 8 C.F.R. § 1208.16(b)(1)(iii). He knows of no family members in Mexico who have suffered harm, nor any individuals who were harmed when they returned to Mexico from the United States. The general evidence of country conditions on which Contreras relies does not show that he will be targeted based on his status as a recent returnee from the United States who may be perceived as wealthy. Thus, he has failed to meet his burden to show it is more likely than not that he will face future persecution based on his membership in a particular social group. *See id.* at § 1208.16(b)(2).

2. Moreover, substantial evidence supports the agency's determination that Contreras is not entitled to CAT relief because he has not shown he is more likely than not to suffer torture in Mexico. *See id.* at § 1208.16(c)(2). Contreras has not been subject to torture in the past. *See id.* at § 1208.16(c)(3)(i). He adduces no record evidence supporting his claim that the government, or any entity with the acquiescence of the government, would torture him upon return to Mexico. *See id.* at § 1208.18(a)(1). Generalized evidence of violence and crime in Mexico does not satisfy his burden. *See Delgado-Ortiz*, 600 F.3d at 1152 (holding that "generalized evidence of violence and crime in Mexico is not particular to [p]etitioners and is insufficient to meet [the CAT relief] standard").

PETITION DENIED.