

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 12 2022

FOR THE NINTH CIRCUIT

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

ANTONIO GONZALEZ-MORALES,

No. 21-70471

Petitioner,

Agency No. A208-836-843

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted December 8, 2022**
San Francisco, California

Before: BRESS and VANDYKE, Circuit Judges, and RESTANI,*** Judge.

Petitioner Antonio Gonzalez-Morales, a native and citizen of Mexico,
petitions for review of an order of 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 Jane A. Restani, Judge for the United States Court of
International Trade, sitting by designation.

dismissing his appeal of an Immigration Judge’s (“IJ”) denial of asylum, withholding of removal, cancellation of removal, and relief under the Convention Against Torture (“CAT”).¹ We deny the petition.

I. Withholding of Removal

The BIA did not err in rejecting Gonzalez-Morales’s application for withholding of removal. Gonzalez-Morales fails to demonstrate that “Mexican repatriating men in fear of being kidnapped and held for ransom because of perceived wealth as persons returning from US” is a protected social group. *See Barbosa v. Barr*, 926 F.3d 1053, 1059–60 (9th Cir. 2019). Additionally, as the BIA noted, Gonzalez-Morales’s “fear of criminality in Mexico does not establish membership in a particular social group.” *See Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010) (“An alien’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.”).

II. Asylum and CAT

We lack jurisdiction to review petitioner’s requests for asylum and CAT relief. 8 U.S.C. § 1252(d)(1) is a prerequisite to subject matter jurisdiction,

¹ Gonzalez-Morales does not properly challenge the BIA’s denial of cancellation of removal in the opening brief to this court. Thus, we deem this issue waived. *Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996) (“Issues raised in a brief that are not supported by argument are deemed abandoned.”).

requiring a petitioner to “exhaust[] all administrative remedies available . . . as of right” See *Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004), *aff’d* *Honcharov v. Barr*, 924 F.3d 1293, 1296 n.2 (9th Cir. 2019) (per curiam).

Gonzalez-Morales’s concession of ineligibility for asylum protection and failure to raise and argue his CAT and asylum claims in his brief to the BIA indicate a failure to administratively exhaust those claims under § 1252(d)(1). *Abebe v. Mukasey*, 554 F.3d 1203, 1208 (9th Cir. 2009) (en banc) (per curiam) (holding that a petitioner is “deemed to have exhausted only those issues he raised and argued in his brief before the BIA”).

PETITION DENIED.