NOT FOR PUBLICATION

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HUMBERTO DANIEL PADILLA COLLAZO,

Petitioner,

v.

MERRICK B. GARLAND, Attorney General,

Respondent.

No. 21-70478

Agency No. A047-318-273

MEMORANDUM*

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

Submitted** November 7, 2022
Pasadena, California

Before: PARKER***, KOH, and SUNG, Circuit Judges.

Humberto Daniel Padilla Collazo ("Petitioner"), a native and citizen of Mexico, seeks review of a decision 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 Barrington D. Parker, Jr., United States Circuit Judge for the U.S. Court of Appeals for the Second Circuit, sitting by designation.

affirming the denial by an immigration judge ("IJ") of Petitioner's applications for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252.

Our review of questions related to our jurisdiction is de novo. *See Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1245 (9th Cir. 2008). We review factual findings for substantial evidence: "The agency's fact finding is conclusive unless a reasonable adjudicator would be compelled to conclude to the contrary." *Garcia v. Wilkinson*, 988 F.3d 1136, 1148 (9th Cir. 2021). Applying these standards, we dismiss in part and deny in part the petition for review.[1]

Petitioner first contends that he is eligible for withholding of removal because the IJ's determination that he committed "particularly serious crimes" was erroneous. The IJ determined that Petitioner's domestic violence and third DUI convictions qualified as particularly serious crimes that barred him from consideration for withholding of removal. Petitioner did not challenge these determinations before the BIA, and the BIA deemed the issues waived.[2] Petitioner does not contend that the BIA's waiver determination was erroneous. We therefore lack jurisdiction to address the issue. *See Barron v. Ashcroft*, 358 F.3d 674, 678

[1] In light of our ruling, the motion for a stay of removal is denied as moot. The temporary stay of removal will remain in place until the mandate issues.
[2] Separately, in a hearing before the IJ, Petitioner conceded that his conviction for an aggravated felony rendered him ineligible for asylum. The IJ accepted that concession, and Petitioner does not challenge it here.

(9th Cir. 2004).

Petitioner next claims that the BIA's denial of CAT protection is not supported by substantial evidence. The BIA denied Petitioner's application for CAT protection for two independently sufficient reasons; we discuss each in turn.

First, substantial evidence supports the BIA's conclusion that Petitioner had not demonstrated that future torture would be "inflicted by, . . . with the consent or acquiescence of[] a public official . . . or other person acting in an official capacity." 8 C.F.R. § 1208.18(a)(1). Although Petitioner's general country evidence indicates ongoing problems with cartel violence and police corruption, it does not compel the conclusion that a public official would consent to or acquiesce in torture of the Petitioner in particular. *See Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010). Indeed, there is significant evidence in the record that indicates just the opposite. Petitioner testified that police in Mexico actively worked to address the violence directed against his family by arresting his grandmother's killer, who was later sentenced to thirty years in prison, and by investigating his cousin's disappearance. Thus, the evidence does not compel the conclusion that a public official would cause, consent to, or acquiesce in any torture Petitioner faced in the future.

Second, substantial evidence supports the BIA's conclusion that Petitioner failed to show it was more likely than not that he would be tortured if returned to

Mexico. *See* 8 C.F.R. § 1208.16(c)(2). Petitioner faced no past torture in Mexico. *See id.* § 1208.16(c)(3)(i). The BIA also reasonably concluded that Petitioner could relocate to another area of Mexico if he feared returning to his hometown. *See id.* § 1208.16(c)(3)(ii). Although we agree with the BIA that the evidence of cartel violence and police corruption in Mexico is troubling, particularly given the murders of Petitioner's two childhood friends after they were deported, Petitioner provided little evidence that would compel the conclusion that he would be particularly targeted if deported. *See Flores-Vega v. Barr*, 932 F.3d 878, 887 (9th Cir. 2019) (affirming denial of CAT protection when petitioner did not show "greater risk . . . than any other Mexican national deported from the United States"). As to Petitioner's testimony that he received five phone calls between 2014 and 2017, those calls contained no direct threats, and Petitioner provided no corroboration for his belief that they came from the Jalisco New Generation cartel. The evidence, therefore, does not compel the conclusion that Petitioner is more likely than not to be tortured if returned to Mexico.

PETITION DISMISSED in part, DENIED in part.