

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 15 2023

FOR THE NINTH CIRCUIT

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

GERALDINA YAMILEC CAMPOS  
GUZMAN; EDWIN JOSUE CAMPOS  
GUZMAN; YESSER JAVIER BORJAS  
CAMPOS,

Petitioners,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 22-1290

Agency Nos.  
A209-167-174  
A209-167-175  
A209-167-176

MEMORANDUM\*

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

Submitted November 13, 2023\*\*  
Pasadena, California

Before: RAWLINSON, CLIFTON, and HURWITZ, Circuit Judges.

Geraldina Yamilec Campos Guzman (Campos Guzman), and her minor

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\* 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).

children, natives and citizens of Honduras, petition for review of a decision of the Board of Immigration Appeals (BIA) dismissing their appeal of the denial of asylum, withholding of removal, and protection under the Convention Against Torture (CAT). We have jurisdiction under 8 U.S.C. § 1252(a), and we deny the petition.

When the BIA cites *Matter of Burbano*, 20 I. & N. Dec. 872 (BIA 1994), and also provides its own reasoning, we review both the IJ’s decision and the BIA’s determination. *See Ruiz-Colmenares v. Garland*, 25 F.4th 742, 748 (9th Cir. 2022). We review “the factual findings of the [BIA] for substantial evidence.” *Gutierrez-Alm v. Garland*, 62 F.4th 1186, 1194 (9th Cir. 2023) (citation omitted). “Substantial evidence exists when the BIA’s conclusions are supported by reasonable, substantial evidence, and probative evidence in the record. . . .” *Id.* (citation and internal quotation marks omitted). Thus, “the agency’s factual findings are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary.” *Id.* (citations and internal quotation marks omitted).

1. The agency’s finding that Campos Guzman failed to establish membership in a cognizable social group is supported by substantial evidence. Campos Guzman identified the particular social group of “Honduran single mothers opposed to gang recruitment.” However, that proposed particular social group is foreclosed by our precedent. *See Ramos-Lopez v. Holder*, 563 F.3d 855,

861-62 (9th Cir. 2009) (rejecting particular social group of “young Honduran men who have been recruited by the MS-13, but who refuse to join”), *abrogated in part on other grounds by Henriquez-Rivas v. Holder*, 707 F.3d 1081 (9th Cir. 2013).<sup>1</sup> If resistance to gang recruitment is not enough to establish a cognizable particular social group for those directly targeted, it logically follows that it also cannot do so for their mothers. Because Campos-Guzman failed to establish a cognizable particular social group, substantial evidence supports the denial of asylum and withholding of removal. *See Nguyen v. Barr*, 983 F.3d 1099, 1104 (9th Cir. 2020).

2. Substantial evidence supports the denial of CAT relief. To establish eligibility for CAT relief, an applicant must demonstrate the existence of “a particularized threat of torture . . . inflicted by or at the instigation of or with the consent or acquiescence of a public official.” *Dhital v. Mukasey*, 532 F.3d 1044, 1051 (9th Cir. 2008) (per curiam) (citations, emphasis, and internal quotation marks omitted). The evidence before the agency does not compel the conclusion that Campos Guzman established a particularized risk of torture. Rather, the evidence reflects that Campos Guzman and her son never experienced torture, and have not been threatened with torture since leaving Honduras. *See Duran-*

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<sup>1</sup> Campos Guzman contends that there is a nexus between her well-founded fear of future persecution and her proposed particular social group. However, Campos Guzman’s failure to demonstrate a cognizable particular social group obviates any need to address nexus. *See Nguyen v. Barr*, 983 F.3d 1099, 1104 (9th Cir. 2020).

*Rodriguez v. Barr*, 918 F.3d 1025, 1029-30 (9th Cir. 2019) (concluding that substantial evidence supported the denial of CAT relief when the record did not reflect past torture or evidence of threats of future torture). Neither did the evidence reflect that the government would acquiesce to Petitioners' torture.

*Garcia-Milian v. Holder*, 755 F.3d 1026, 1035 (9th Cir. 2014), *as amended* (determining that substantial evidence supported the denial of CAT relief when there was no evidence of government acquiescence).

**PETITION DENIED.**