UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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SATIEL HUMBERTO MORALES-RIVAS; ALEX JOSUE MORALES LABATO, Petitioners, v. MERRICK B. GARLAND, Attorney General, Respondent.	No. 22-1456 Agency Nos. A209-233-279 A209-233-280 MEMORANDUM[*]

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

Submitted December 7, 2023[**]
San Francisco, California

Before: S.R. THOMAS, BRESS, and JOHNSTONE, Circuit Judges.

Satiel Humberto Morales-Rivas and his minor son, natives and citizens of El

Salvador, petition for review of a decision by the Board of Immigration Appeals

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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).

("BIA") dismissing their appeal of the denial by an Immigration Judge ("IJ")

(collectively, "the Agency") of their applications for asylum, withholding of

removal, and protection under the Convention Against Torture ("CAT").[1] We have

jurisdiction under 8 U.S.C. § 1252 and we deny the petition.

"Where, as here, the BIA cites [*Matter of Burbano*, 20 I. & N. Dec. 872

(B.I.A. 1994)] and also provides its own review of the evidence and law, we

review both the IJ's and the BIA's decisions." *Ali v. Holder*, 637 F.3d 1025, 1028

(9th Cir. 2011). We review legal conclusions de novo and factual findings for

substantial evidence. *Id.* at 1028-29.

Substantial evidence supports the Agency's determination that Morales-

Rivas did not establish his eligibility for asylum. First, Morales-Rivas did not

demonstrate a "well-founded fear" of being individually targeted for persecution

on account of his membership in the particular social groups of individuals (or El

Salvadorans) who have witnessed and disclosed (or reported) gang activity to the

general population because he failed to produce evidence demonstrating that his

fear of future harm is "objectively reasonable." *See Wakkary v. Holder*, 558 F.3d

1049, 1052 (9th Cir. 2009); *see also* 8 C.F.R. § 208.13(b)(2)(i). Instead, his fear of

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[1] Morales-Rivas does not make any arguments or cite any authorities in his
opening brief with respect to the Agency's denial of his application for protection
under the CAT. He has, therefore, forfeited his CAT claim and we will not review
it. *See Escobar Santos v. Garland*, 4 F.4th 762, 764 n.1 (9th Cir. 2021).

persecution is speculative and lacks evidentiary support in the record. *See Sharma v. Garland*, 9 F.4th 1052, 1065-66 (9th Cir. 2021).

Second, Morales-Rivas did not demonstrate that there is a "pattern or practice" of persecution against similarly situated persons on account of their membership in his particular social groups. *See Wakkary*, 558 F.3d at 1060; *see also* 8 C.F.R. § 1208.13(b)(2)(iii). The record supports the Agency's finding that there is not a "systematic" pattern or practice of persecution against journalists or interviewees. *Cf. Wakkary*, 558 F.3d at 1061 (collecting cases where a pattern or practice of persecution was found). Furthermore, substantial evidence supports the IJ's determination that Morales-Rivas is not similarly situated to witnesses who testify or cooperate against gangs in criminal proceedings. *Cf. Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1092 (9th Cir. 2013) (discussing the "unique vulnerability of people who testify against gang members").

Because substantial evidence supports the Agency's conclusion that Morales-Rivas did not demonstrate a "well-founded fear" for the purpose of asylum, he "necessarily has failed to meet the more stringent 'clear probability' burden required for withholding of deportation." *Molina-Morales v. INS*, 237 F.3d 1048, 1052 (9th Cir. 2001) (quoting *Singh-Kaur v. INS*, 183 F.3d 1147, 1149 (9th

Cir. 1999)). The pending motion for stay of removal is denied as moot.[2]

PETITION DENIED.

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[2] The temporary stay shall remain in effect until issuance of the mandate. *See* General Order 6.4(c).