

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 20 2023

FOR THE NINTH CIRCUIT

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

EDELMIRA JIMENEZ ROSAS; ANGEL  
JESUS RODRIGUEZ JIMENEZ,

Petitioners,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 22-1767

Agency Nos.  
A206-675-877  
A206-675-878

MEMORANDUM\*

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

Submitted November 15, 2023\*\*  
San Jose, California

Before: MURGUIA, Chief Judge, and GRABER and FRIEDLAND, Circuit  
Judges.

Petitioner Edelmira Jimenez Rosas (“Jimenez Rosas”) petitions for review of  
the denial by the Board of Immigration Appeals (“BIA”) of her applications for

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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).

asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). Jimenez Rosas’s son, Angel Jesus Rodriguez Jimenez, is a derivative beneficiary of Jimenez Rosas’s asylum application. We deny the petition.

When the BIA adopts the immigration judge’s (“IJ”) decision “with a citation to *Matter of Burbano* and also adds its own comments, as it did here, we review the decisions of both the BIA and the IJ.” *Gonzalez-Castillo v. Garland*, 47 F.4th 971, 976 (9th Cir. 2022) (quoting *Gonzaga-Ortega v. Holder*, 736 F.3d 795, 800 (9th Cir. 2013)). We review questions of law de novo. *Diaz-Reynoso v. Barr*, 968 F.3d 1070, 1076 (9th Cir. 2020). We review factual findings for substantial evidence. *Id.* “Substantial evidence review requires us to uphold the BIA’s determination unless ‘the evidence compels a contrary conclusion.’” *Gonzalez-Castillo*, 47 F.4th at 976 (quoting *Villalobos Sura v. Garland*, 8 F.4th 1161, 1167 (9th Cir. 2021)).

1. The BIA did not err in denying Jimenez Rosas’s claims for asylum and withholding of removal. The IJ concluded, and the BIA affirmed, that the harm Jimenez Rosas suffered did not amount to past persecution. Substantial evidence supports that conclusion. Jimenez Rosas testified that in response to a death threat, she fled to her sister’s home in a nearby town in Mexico. Given that Jimenez Rosas did not allege any further threats or physical harm, the record does not compel the conclusion that Jimenez Rosas established past persecution. *See*

*Sharma v. Garland*, 9 F.4th 1052, 1062 (9th Cir. 2021) (explaining that “[m]ere threats, without more, do not necessarily compel a finding of past persecution” (citation omitted)); *Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1028 (9th Cir. 2019) (explaining that the court has been “most likely to find persecution where threats are repeated, specific and combined with confrontation or other mistreatment” (citation and internal quotation marks omitted)).

Because Jimenez Rosas did not establish past persecution, she bears the burden of establishing that it would not be reasonable for her to relocate. 8 C.F.R. §§ 1208.13(b)(3)(i), 1208.16(b)(3)(i). The BIA affirmed the IJ’s conclusion that Jimenez Rosas failed to show that she could not reasonably relocate within Mexico, because Jimenez Rosas’s older son and sister have been living unharmed elsewhere in Mexico. Jimenez Rosas fails to challenge the IJ and BIA’s internal relocation determination in her opening brief. As a result, she forfeited the issue. *See Iraheta-Martinez v. Garland*, 12 F.4th 942, 959 (9th Cir. 2021) (“But by failing to develop the argument in his opening brief, [petitioner] forfeited it.”); *Rios v. Lynch*, 807 F.3d 1123, 1125 n.1 (9th Cir. 2015) (“[Petitioner] abandoned his claims for asylum and CAT protection by not addressing them with any specificity in his briefs.”). Because internal relocation is dispositive here, we uphold the BIA’s denial of asylum and withholding of removal.

2. Substantial evidence supports the BIA’s denial of Jimenez Rosas’s CAT claim. The IJ found, and the BIA agreed, that Jimenez Rosas did not establish that it is more likely than not that she will be tortured if returned to Mexico. Jimenez Rosas offers country conditions evidence about cartel violence and government corruption in Mexico, but the evidence does not show that she faces a particularized risk of torture. *See Tzompantzi-Salazar v. Garland*, 32 F.4th 696, 706–07 (9th Cir. 2022) (finding that the “country conditions evidence acknowledg[ing] crime and police corruption in Mexico generally . . . fails to show that Petitioner faces a particularized, ongoing risk of future torture”). Because the record does not compel a conclusion contrary to the BIA’s, we uphold the BIA’s denial of CAT relief.

3. The BIA properly rejected the argument that the IJ failed to evaluate the son’s claim independently. Petitioners do not identify any arguments made before the IJ indicating a separate basis for relief for the son.

**Petition DENIED.**