

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 7 2023

FOR THE NINTH CIRCUIT

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

JOSE CORONA,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 23-106

Agency No.
A206-191-722

MEMORANDUM*

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

Submitted December 5, 2023**
Seattle, Washington

Before: N.R. SMITH, SANCHEZ, and MENDOZA, Circuit Judges.

Jose Corona, native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA" or "Board") decision affirming the Immigration Judge's ("IJ") denial of his application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence

* 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 BIA’s denials of asylum, withholding of removal, and CAT relief, *see Flores Molina v. Garland*, 37 F.4th 626, 632 (9th Cir. 2022), and we deny the petition.

1. Substantial evidence supports the BIA’s rejection of Corona’s proposed particular social group, defined as “male members of the community of La Cuchara, Michoacan, who refuse to bear arms and join the community action [security] group[.]” A “particular social group” must consist of members who share a common immutable characteristic, be defined with particularity, and be recognized as socially distinct by the society in question. *Matter of M-E-V-G-*, 26 I. & N. Dec. 227, 237 (BIA 2014); *see also Reyes v. Lynch*, 842 F.3d 1125, 1135 (9th Cir. 2016). We have held that “generalized opposition to gangs” is not a cognizable particular social group. *Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1093 (9th Cir. 2013) (en banc). Moreover, “resistance to a gang’s recruitment efforts alone does not constitute political opinion.” *Ramos-Lopez v. Holder*, 563 F.3d 855, 862 (9th Cir. 2009) (cleaned up), *abrogated on other grounds by Henriquez-Rivas*, 707 F.3d at 1093.

While Corona’s testimony indicates that his relatives and other community members may have been forced to join the protection groups to defend against cartels, the record is devoid of evidence that Mexican society perceives those who refuse to join a community action security group as recognizable or discrete from society at large so as to constitute a cognizable “particular social group.” The BIA properly concluded that Corona’s proposed

particular social group was not “appreciably different from gang recruitment based social groups that have not been found to be cognizable by [this Court].”

2. Substantial evidence also supports the BIA’s determination that Corona did not establish that he would be unable to relocate within Mexico to escape any feared harm. Corona argues that he “not only faces the threat of violence from the drug cartels trying to take over La Cuchara, but is also facing harm from the local community action security group.” However, Corona failed to present any evidence that the community action security group, which he contends exerts influence only in the local community, would seek him out were he to relocate to a different Mexican town to conduct his farm work. Nor has he presented evidence that he faces a particularized risk of harm from any drug cartel. Rather, he argues that “Mexican drug cartels are everywhere” and “he is most likely to encounter the cartel again in some other shape or form.” Such generalized fear of crime is inadequate for relief. *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.”). Accordingly, the BIA properly denied Corona’s claims for asylum and withholding of removal.

3. Finally, substantial evidence supports the Board’s determination that Corona is not eligible for CAT protection because he failed to establish a clear probability of torture by or with the acquiescence of a government official. Corona fails to demonstrate substantial grounds as to why it is more likely than

not that he would be susceptible to future torture at the hands of drug cartels. His allegations about Mexican police beholden to “corruption or fear” are similarly far too general to be grounds for protection under the CAT. *See Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010) (per curiam) (“Petitioners’ generalized evidence of violence and crime in Mexico is not particular to Petitioners and is insufficient to meet [the CAT] standard.”); *B.R. v. Garland*, 26 F.4th 827, 844–45 (9th Cir. 2022) (holding that, while generalized country reports suggest occasionally “some corrupt officials may turn a blind eye to criminal activity, the Mexican government, rather than being willfully blind to cartel violence and torture, actively combats and prosecutes cartel activity”). The record evidence supports the Board’s determination that Corona is not eligible for CAT protection.

PETITION DENIED.