

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 29 2024

FOR THE NINTH CIRCUIT

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

CAROL JEANNETTE CASTRO-
MENJIVAR; VALERY MENJIVAR-
CASTRO; XAVIER ALEXANDER
MENJIVAR-COREAS,

Petitioners,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 23-303

Agency Nos.
A209-221-935
A209-221-927
A209-221-929

MEMORANDUM*

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

Submitted March 27, 2024**
San Francisco, California

Before: WALLACH, NGUYEN, and BUMATAY, Circuit Judges.***

Carol Jeannette Castro-Menjivar, Xavier Alexander Menjivar-Coreas, and

* 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 Evan J. Wallach, United States Senior Circuit Judge for the Federal Circuit, sitting by designation.

Valery Menjivar-Castro, natives and citizens of El Salvador, seek review of the Board of Immigration Appeals' ("BIA") order affirming the Immigration Judge's ("IJ") denial of asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review factual findings for substantive evidence and legal conclusions de novo. *Cornejo-Villagrana v. Whitaker*, 912 F.3d 479, 482 (9th Cir. 2017). We deny the petition.

1. Castro-Menjivar argues the BIA erred in finding that she had not established that the harm she experienced or fears in El Salvador would be motivated by membership in her proposed social group of "military members or family of military members." But Castro-Menjivar failed to present sufficient evidence to establish a nexus between this claimed membership and the harm she experienced, or feared she would experience if removed to El Salvador. While Castro-Menjivar presented evidence of her and her husband being threatened, substantial evidence supports the BIA's conclusion that it was not motivated by her or her husband's membership in the military but by a desire to extort ransom money. *See Parussimova v. Mukasey*, 555 F.3d 734, 739 (9th Cir. 2009).

2. Castro-Menjivar argues that the BIA erred in denying her CAT claim. To qualify for relief under CAT, Castro-Menjivar would need to establish that "it is more likely than not that ... she would be tortured if removed" to El Salvador.

8 C.F.R. § 208.16(c)(2). Substantial evidence supports the BIA’s determination that Castro-Menjivar failed to show “an individualized risk of torture.” *See Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010).

PETITION DENIED.