

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 22 2015

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

EDUARDO DIAZ-OROZCO et al,

Petitioner,

v.

ERIC H. HOLDER, JR., Attorney General

Respondent.

No. 13-72986

Agency No. A092-289-391

MEMORANDUM*

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

Submitted January 16, 2015 **
San Francisco, California

Before: NOONAN and CLIFTON, Circuit Judges, and ADELMAN, District
Judge.***

Petitioner Eduardo Diaz-Orozco (“petitioner”) seeks review of a final order from the Board of Immigration Appeals directing his removal to Mexico. *See* 8 U.S.C. § 1252(a). We deny the petition in part and dismiss it in part.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 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 Lynn S. Adelman, District Judge for the United States District Court for the Eastern District of Wisconsin, sitting by designation.

The Board correctly determined that petitioner’s conviction of attempted aggravated assault under Ariz. Rev. Stat. §§ 13-1203(A)(1), 13-1204(A)(2), & 13-1001, qualifies as an aggravated felony/crime of violence under 8 U.S.C. § 1101(a)(43)(F). Attempted aggravated assault under Arizona law covers only intentional conduct, *United States v. Gomez-Hernandez*, 680 F.3d 1171, 1176 (9th Cir. 2012), and this offense satisfies both prongs of 18 U.S.C. § 16. *See United States v. Cabrera-Perez*, 751 F.3d 1000, 1007 (9th Cir. 2014) (citing *United States v. Ceron-Sanchez*, 222 F.3d 1169, 1172-73 (9th Cir. 2000), *overruled on other grounds*, *Fernandez-Ruiz v. Gonzales*, 466 F.3d 1121 (9th Cir. 2006)). We lack jurisdiction to consider petitioner’s argument that the Board relied on incorrect factual determinations in finding this offense a “particularly serious crime.” *See Pechenkov v. Holder*, 705 F.3d 444, 448 (9th Cir. 2012). Finally, petitioner fails to show that the record compels a finding in his favor on his claim under the Convention Against Torture. *See Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010) (“Petitioners’ generalized evidence of violence and crime in Mexico is not particular to Petitioners and is insufficient to meet this standard.”).

PETITION DENIED IN PART AND DISMISSED IN PART.