

MAR 24 2015

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ANGEL ALVAREZ-LEON,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-73812

Agency No. A089-091-165

MEMORANDUM*

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

Submitted March 10, 2015**

Before: FARRIS, WARDLAW, and PAEZ, Circuit Judges.

Angel Alvarez-Leon, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture

* 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).

(“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008). We deny in part, dismiss in part, and grant in part the petition for review, and we remand.

The BIA correctly found Alvarez-Leon’s asylum claim was time-barred. The record does not support Alvarez-Leon’s contention that the BIA failed to address changed circumstances, including the issues he raised in his brief to the BIA. We lack jurisdiction to review Alvarez-Leon’s contention that the IJ failed to consider changed circumstances because he did not raise it to the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

Substantial evidence supports the agency’s denial of CAT relief because Alvarez-Leon failed to establish it is more likely than not he would be tortured at the instigation of or with the acquiescence of the government if returned to Mexico. *See Silaya*, 524 F.3d at 1073.

However, in denying Alvarez-Leon’s withholding of removal claim, the agency found Alvarez-Leon failed to establish a likelihood of future persecution on account of a protected ground. When the IJ and BIA issued their decisions in this case, they did not have the benefit of this court’s decisions in *Henriquez-Rivas v. Holder*, 707 F.3d 1081 (9th Cir. 2013) (en banc), *Cordoba v. Holder*, 726 F.3d

1106 (9th Cir. 2013), and *Pirir-Boc v. Holder*, 750 F.3d 1077 (9th Cir. 2014), or the BIA's decisions in *Matter of M-E-V-G-*, 26 I. & N. Dec. 227 (BIA 2014), and *Matter of W-G-R-*, 26 I. & N. Dec. 208 (BIA 2014). Thus, we remand Alvarez-Leon's withholding of removal claim to determine the impact, if any, of these decisions. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam). In light of this remand, we do not reach Alvarez-Leon's remaining challenges to the agency's denial of his withholding of removal claim at this time.

**PETITION FOR REVIEW DENIED in part; DISMISSED in part;
GRANTED in part; REMANDED.**