

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 30 2015

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

EDUARDO NAVARRO-RODRIGUEZ,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 11-71363

Agency No. A088-884-456

MEMORANDUM*

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

Submitted April 22, 2015**

Before: GOODWIN, BYBEE, and CHRISTEN, Circuit Judges.

Eduardo Navarro-Rodriguez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order affirming an immigration judge's decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). Our jurisdiction is

* 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).

governed by 8 U.S.C. § 1252. We review for substantial evidence the agency's factual findings. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006).

We deny in part and dismiss in part the petition for review.

Even if Navarro-Rodriguez's established an exception to excuse his untimely asylum application, substantial evidence supports the agency's determination that he failed to establish past persecution or a fear of future persecution on account of a protected ground. *See Parussimova v. Mukasey*, 555 F.3d 734, 741 (9th Cir. 2009) (“[T]o demonstrate that a protected ground was ‘at least one central reason’ for persecution, an applicant must prove that such ground was a cause of the persecutors’ acts.”); *see also Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010) (petitioner'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”). We lack jurisdiction to consider the social group contentions that Navarro-Rodriguez raises for the first time in his opening brief. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (no jurisdiction over claims not presented in administrative proceedings below). Thus, Navarro-Rodriguez's asylum and withholding of removal claims fail. *See Dinu v. Ashcroft*, 372 F.3d 1041, 1045 (9th Cir. 2004).

Finally, substantial evidence also supports the agency's denial of Navarro-

Rodriguez's CAT claim because he failed to demonstrate it is more likely than not he would be tortured by or with the consent or acquiescence of the government if returned to Mexico. *See Silaya v. Mukasey*, 524 F.3d 1066, 1073 (9th Cir. 2008).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.