

("CAT"). Our jurisdiction is 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 dismiss in part and deny in part the petition for review.

We do not consider new evidence Pedro-Simon attached to his opening brief. *See Fisher v. INS*, 79 F.3d 955, 963 (9th Cir. 1996) (en banc) (court's review is limited to the administrative record).

We lack jurisdiction to consider Pedro-Simon's contentions regarding asylum, removability, and the IJ's alleged constitutional violations, because he failed to raise them to the BIA. *See Sola v. Holder*, 720 F.3d 1134, 1135-36 (9th Cir. 2013).

Substantial evidence supports the BIA's conclusion that Pedro-Simon's experiences in Guatemala did not rise to the level of persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003) (unfulfilled threats constituted harassment, not persecution). Substantial evidence also supports the BIA's determination that Pedro-Simon failed to demonstrate it is more likely than not that he will be persecuted in Guatemala. *See Nagoulko v. INS*, 333 F.3d 1012, 1018 (9th Cir. 2003) (possibility of future persecution too speculative). We do not reach Pedro-Simon's contentions regarding the IJ's particularly serious crime

determination, because the BIA did not rely on this ground in denying his withholding of removal claim. *See Santiago-Rodriguez v. Holder*, 657 F.3d 820, 829 (9th Cir. 2011) (review limited to the grounds relied on by the BIA). Thus, Pedro-Simon's withholding of removal claim fails.

Substantial evidence also supports the BIA's denial of Pedro-Simon's CAT claim because he failed to show it is more likely than not that he would be tortured by or with the consent or acquiescence of the Guatemalan government. *See Silaya v. Mukasey*, 524 F.3d 1066, 1073 (9th Cir. 2008). We reject Pedro-Simon's contention that the agency failed to properly consider record evidence. Thus, his CAT claim fails.

Finally, according to respondent, Pedro-Simon was removed from the United States on January 13, 2014. Thus, we deny his motion for stay of removal as moot.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.