

OCT 22 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION  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

SANDRA NOEMI ARCHILA-MENDEZ,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 15-70158

Agency No. A206-716-613

MEMORANDUM\*

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

Submitted October 14, 2015\*\*

Before: SILVERMAN, BYBEE, and WATFORD, Circuit Judges.

Sandra Noemi Archila-Mendez, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's ("IJ") decision denying her application for asylum and withholding of removal. Our jurisdiction is governed by 8 U.S.C.

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\* 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).

§ 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.

Substantial evidence supports the agency’s determination that Archila-Mendez did not establish past persecution or a well-founded fear of future persecution on account of her membership in a social group of HIV positive women. *See Nagoulko v. INS*, 333 F.3d 1012, 1016-18 (9th Cir. 2003) (being “teased, bothered, discriminated against and harassed,” absent physical harm, did not compel finding of past persecution); *see also Castro-Martinez v. Holder*, 674 F.3d 1073, 1077-78 (9th Cir. 2011) (no well-founded fear of persecution based on petitioner’s HIV positive status). Substantial evidence also supports the agency’s determination that Archila-Mendez did not establish past persecution or a well-founded fear of future persecution on account of her resistance to gang members’ attempts to involve her in an extortion scheme. *See Gu v. Gonzalez*, 454 F.3d 1014, 1021-22 (9th Cir. 2006) (petitioner failed to present compelling, objective evidence demonstrating a well-founded fear of persecution). We lack jurisdiction to consider Archila-Mendez’s contention that she will be persecuted on account of her membership in a particular social group of Guatemalan women because she did

not raise it to the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004). Thus, we deny the petition as to Archila-Mendez's asylum claim.

Because Archila-Mendez failed to establish eligibility for asylum, her withholding of removal claim necessarily fails. *See Zehatye*, 453 F.3d at 1190 (petitioner's burden of proof for withholding of removal is more demanding than asylum).

Finally, we lack jurisdiction over any challenge Archila-Mendez makes to the BIA's denial of her motion to reopen because she did not file a petition for review of that order. *See Andia v. Ashcroft*, 359 F.3d 1181, 1183 (9th Cir. 2004). We also lack jurisdiction to consider Archila-Mendez's contention that she had inadequate time to prepare her case before the IJ because she failed to raise this argument to the BIA. *See Barron*, 358 F.3d at 677-78.

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