

NOV 24 2015

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDUARDO JIMENEZ-REYES, AKA  
Gerardo Jimenez,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-73674

Agency No. A077-975-154

MEMORANDUM\*

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

Submitted November 18, 2015\*\*

Before: TASHIMA, OWENS, and FRIEDLAND, Circuit Judges.

Eduardo Jimenez-Reyes, 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 decision denying his application for asylum, withholding of

---

\* 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).

removal, and protection under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, including determinations regarding changed and extraordinary circumstances. *Castro-Martinez*, 674 F.3d 1073, 1080 (9th Cir. 2011). We deny in part and dismiss in part the petition for review.

The record does not compel the conclusion that the delay of more than six years in filing Jimenez-Reyes’ asylum application after his brother’s attack was reasonable. *See* 8 C.F.R. § 208.4(a); *see also Sumolong v. Holder*, 723 F.3d 1080, 1082-83 (9th Cir. 2013). We lack jurisdiction to review Jimenez-Reyes’ claim that being placed in removal proceedings constituted an extraordinary circumstance because he failed to raise it to the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (no jurisdiction over claims not presented below).

Jimenez-Reyes fears he will be harmed by enemies of his father. Substantial evidence supports the agency’s finding that Jimenez-Reyes did not establish that the source of his persecution was government officials or individuals the Mexican government is unable or unwilling to control. *See Castro-Martinez*, 674 F.3d at 1079-1081. Thus, Jimenez-Reyes’ withholding of removal claim fails.

Further, Jimenez-Reyes failed to show that he will be tortured at the instigation of or with the consent or acquiescence of a public official. *See Garcia-*

*Milian*, 755 F.3d 1026, 1034-35 (9th Cir. 2014). Thus, Reyes' CAT claim also fails.

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