

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

NOV 20 2017

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

JOSE OMAR ORTEGA-BALDERRAMA,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney  
General,

Respondent.

No. 13-71999

Agency No. A200-978-730

MEMORANDUM\*

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

Submitted November 15, 2017\*\*

Before: CANBY, TROTT, and GRABER, Circuit Judges.

Jose Omar Ortega-Balderrama, 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

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 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 findings of fact, and review de novo claims of due process violations in immigration proceedings. *Padilla-Martinez v. Holder*, 770 F.3d 825, 830 (9th Cir. 2014). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to consider Ortega-Balderrama’s challenge to the IJ’s denial of CAT relief because he failed to raise the issue before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (court lacks jurisdiction to review claims not presented to the agency).

We reject, as unsupported by the record, Ortega-Balderrama’s contention that the BIA violated his due process rights by failing to review the IJ’s determination that his asylum application was time-barred. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error to prevail on a due process claim). Ortega-Balderrama does not otherwise challenge the agency’s time-bar finding. Thus, we deny the petition for review as to his asylum claim.

The agency found that the harm Ortega-Balderrama experienced from his father was due to his failure to comply with his father’s demands that he participate in illegal activities and not based on his membership in his family. The record does not compel a contrary conclusion. *See INS. v. Elias-Zacarias*, 502 U.S. 478, 481 n.1 (1992) (“To reverse the BIA finding we must find that the evidence not only

*supports* that conclusion, but *compels* it[.]”). Thus, we deny the petition as to Ortega-Balderrama’s withholding of removal claim.

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