

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 28 2018

FOR THE NINTH CIRCUIT

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

FRANCISCO ELIEZER PALAFOX  
PADILLA, AKA Hector Lopez,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney  
General,

Respondent.

No. 14-73238

Agency No. A200-607-476

MEMORANDUM\*

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

Argued and Submitted February 12, 2018  
Pasadena, California

Before: McKEOWN and WARDLAW, Circuit Judges, and QUIST,\*\* District  
Judge.

Francisco Eliezer Palafox Padilla, a native and citizen of Mexico, petitions  
for review of the Board of Immigration Appeals' ("BIA") denial of 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 Honorable Gordon J. Quist, United States District Judge for the  
Western District of Michigan, sitting by designation.

(“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We deny the petition in part, grant it in part, and remand.

## **1. ASYLUM CLAIM**

Whether or not Palafox addressed every reason for the Board’s finding that his asylum application was untimely, Palafox’s opening brief clearly challenged that finding and thus preserved the issue for appeal. *See Brown v. Rawson-Neal Psych. Hosp.*, 840 F.3d 1146, 1149 (9th Cir. 2016) (“We . . . reasonably require parties to preserve valid issues in order to conserve judicial resources and to assist our review.”).

The BIA properly concluded that Palafox’s application for asylum was time-barred. Although a delay of six months after the expiration of lawful nonimmigrant status is “presumptively reasonable,” *Singh v. Holder*, 656 F.3d 1047, 1056 (9th Cir. 2011), a nine- to eleven-year delay is not. Ignorance of asylum law is not a special consideration excusing Palafox’s delay in filing. *See Antonio-Martinez v. INS*, 317 F.3d 1089, 1093 (9th Cir. 2003) (“As a general rule, ignorance of the law is no excuse.”). Therefore, Palafox’s petition for review challenging the BIA’s denial of his application for asylum is denied.

## **2. WITHHOLDING OF REMOVAL AND CAT PROTECTION CLAIMS**

With respect to Palafox’s petition for review of his claims for withholding of removal and CAT protection, we grant and remand to the BIA to consider

Palafox's eligibility in light of our intervening decisions in *Barajas-Romero v. Lynch*, 846 F.3d 351 (9th Cir. 2017), and *Bringas-Rodriguez v. Sessions*, 850 F.3d 1051 (9th Cir. 2017) (en banc). Neither the BIA nor the parties had the benefit of these decisions.

Each party shall bear its own costs on appeal.

**PETITION DENIED in part, GRANTED in part, and REMANDED.**