

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 22 2018

FOR THE NINTH CIRCUIT

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

REY DAVID SORIANO-MARQUEZ,

No. 14-72114

Petitioner,

Agency No. A205-711-334

v.

MEMORANDUM\*

JEFFERSON B. SESSIONS III, Attorney  
General,

Respondent.

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

Submitted March 13, 2018\*\*

Before: LEAVY, M. SMITH, and CHRISTEN, Circuit Judges.

Rey David Soriano-Marquez, 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 request for a continuance and denying his application for withholding of removal and relief under the

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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).

Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for an abuse of discretion the denial of a continuance. *Ahmed v. Holder*, 569 F.3d 1009, 1012 (9th Cir. 2009). We review for substantial evidence the agency’s factual findings. *Zetino v. Holder*, 622 F.3d 1007, 1012 (9th Cir. 2010). We dismiss in part, and deny in part the petition for review.

We do not consider new documents submitted with Soriano-Marquez’s opening brief. *See Fisher v. INS*, 79 F.3d 955, 963 (9th Cir. 1996) (court’s review is limited to the administrative record).

We lack jurisdiction to review Soriano-Marquez’s contention regarding voluntary departure because it was not raised to the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (exhaustion is mandatory and jurisdictional).

The IJ did not abuse his discretion in denying Soriano-Marquez’s request for a continuance because Soriano-Marquez did not demonstrate good cause. *See* 8 C.F.R. § 1003.29; *Ahmed*, 569 F.3d at 1012 (factors to consider in reviewing denial of continuance).

Substantial evidence supports the agency’s determination that Soriano-Marquez failed to demonstrate a nexus between the harm he fears and a protected ground. *See Zetino*, 622 F.3d at 1116 (applicant’s desire to be free from

harassment by criminals motivated by theft or random violence by gang members bears no nexus to a protected ground). Thus, Soriano-Marquez's withholding of removal claim fails.

Substantial evidence also supports the agency's denial of CAT relief because Soriano-Marquez failed to show it is more likely than not he would be tortured by or with the consent or acquiescence of the government of Mexico. *See Aden v. Holder*, 589 F.3d 1040, 1047 (9th Cir. 2009). We reject as unsupported by the record Soriano-Marquez's contention that the BIA failed to apply the correct legal standard in its denial of CAT relief.

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