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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CAROLINA GONZALEZ-QUEVEDO,
AKA Karina Gonzalez-Quevero, AKA
Carolina Guitron,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 16-73905

Agency No. A076-658-160

MEMORANDUM*

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

Submitted February 8, 2019**
Seattle, Washington

Before: IKUTA and CHRISTEN, Circuit Judges, and FREUDENTHAL,**
District Judge.

* 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).

*** The Honorable Nancy D. Freudenthal, United States District Judge for the District of Wyoming, sitting by designation.

Carolina Gonzalez-Quevedo petitions for review of an order of the Board of Immigration Appeals (BIA) affirming the decision of an Immigration Judge (IJ) denying her claims for withholding of removal and protection under the Convention Against Torture (CAT). We have jurisdiction under 8 U.S.C. § 1252.

Substantial evidence supports the BIA's conclusion that Gonzalez-Quevedo was not entitled to withholding of removal because she failed to establish a nexus between any past or feared future harm and her membership in the particular social group that she defined as "rape victims." *See Barajas-Romero v. Lynch*, 846 F.3d 351, 359 (9th Cir. 2017).

On appeal to the BIA, Gonzalez-Quevedo asserted membership in the particular social groups defined as "victim[s] of the Mexican criminal gangs, who ha[ve] reported their actions to the police," and "victims of sexual assault who have been denied protection by authorities," but she failed to assert membership in these groups to the IJ. *See Matter of W-Y-C-*, 27 I & N Dec. 189, 191 (BIA 2018). The BIA therefore did not err by not considering the merits of these claims. *See In re J-Y-C-*, 24 I & N Dec. 260, 261 n.1 (BIA 2007).

The IJ erred when he stated that "[t]here is no indication that the police were made aware" of the rape, because Gonzalez-Quevedo credibly testified that she filed a police report regarding the rape but that the police did not believe her and

did not act on her report, and such testimony is relevant to the resolution of Gonzalez-Quevedo's CAT claim. *See Garcia-Milian v. Holder*, 755 F.3d 1026, 1034 (9th Cir. 2014). Gonzalez-Quevedo raised the IJ's error on appeal before the BIA, but the BIA failed to address this argument in its decision. Because "we cannot conduct a meaningful review of the BIA's decision . . . where the BIA failed to provide a reasoned explanation," *Zhiqiang Hu v. Holder*, 652 F.3d 1011, 1020 (9th Cir. 2011), we grant the petition with respect to Gonzalez-Quevedo's CAT claim so that the BIA may consider this argument in the first instance and provide a reasoned explanation for its decision, *see Castillo v. INS*, 951 F.2d 1117, 1121 (9th Cir. 1991).

The parties shall bear their own costs on appeal.

PETITION GRANTED IN PART AND DENIED IN PART.