

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 13 2019

FOR THE NINTH CIRCUIT

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

LUIS ROMAN ARMENTA BELTRAN,

No. 16-73105

Petitioner,

Agency No. A202-065-692

v.

MEMORANDUM*

WILLIAM P. BARR, Attorney General,

Respondent.

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

Submitted March 8, 2019**
Phoenix, Arizona

Before: CLIFTON, IKUTA, and FRIEDLAND, Circuit Judges.

Petitioner Luis Roman Armenta Beltran, a Mexican national and citizen, petitions for review of a decision of the Board of Immigration Appeals (“BIA”) denying him asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). We hold that substantial evidence supports the BIA’s

* 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).

decision and deny the petition. *See Sanjaa v. Sessions*, 863 F.3d 1161, 1164 (9th Cir. 2017) (“To reverse the BIA, we must determine that the evidence not only *supports* [a contrary] conclusion, but *compels* it—and also compels the further conclusion that the petitioner meets the requisite standard for obtaining relief.” (alterations in original) (quotation marks and citations omitted)).

Beltran first attacks the BIA’s holding that he is ineligible for asylum or withholding of removal because he committed a “serious nonpolitical crime” by attempting to carry a backpack of marijuana across the U.S.-Mexico border in exchange for a drug cartel’s assistance in making the crossing. *See* 8 U.S.C. §§ 1158(b)(2)(A)(iii), 1231(b)(3)(B)(iii) (asylum and withholding not available if there are “serious reasons to believe that the alien committed a serious nonpolitical crime”); *Go v. Holder*, 640 F.3d 1047, 1052-53 (9th Cir. 2011) (drug trafficking is presumptively a “serious nonpolitical crime” and “serious reasons to believe” standard is “tantamount to probable cause”). He contends that he only carried the marijuana under duress.

Even assuming that a duress defense could prevent a “serious nonpolitical crime” determination, substantial evidence supports the BIA’s conclusion that Beltran has not established that defense here. Beltran put forward no evidence that the cartel ever forced him to carry the marijuana or threatened him with harm if he did not. Beltran points to his testimony that he “didn’t have an option” to contend

that he “had no choice but to carry the drugs.” But, read in context, this testimony more plausibly supports the conclusion that Beltran had to carry the drugs *only* if he wanted the cartel’s help to cross the border after his attempts to pay the cartel for that service failed. Nothing in the record compels the conclusion that Beltran was tacitly forced into carrying the drugs under an implied risk of physical harm. Beltran appears not to contest the BIA’s determination that there was probable cause that he had attempted to transport the marijuana, and in any event, his own admissions constitute substantial evidence supporting that conclusion.

Substantial evidence also supports the BIA’s conclusion that Beltran did not show that it was more likely than not that he would be tortured by or with the acquiescence of government officials, as is required for CAT relief. 8 C.F.R. § 1208.17. Beltran urges us to infer from his family’s history with the cartel that it might target him next but the record does not compel that inference. Beltran’s brother appears to have been murdered in an execution-style shooting following threats from the cartel, but it does not follow that the cartel would target Beltran. Unlike his brother, who had worked for and apparently fallen out of favor with the cartel, Beltran himself is not and has not been part of the cartel. Beltran’s uncle was also killed, but the cause of his death remains unknown. Moreover, nothing in the record indicates that the cartel has threatened Beltran or his family since his brother’s death or committed acts of violence against them.

The petition for review is **DENIED.**