

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 15 2019

FOR THE NINTH CIRCUIT

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

CIRO NARCISO-MATIANO, AKA Ciro
Matiano, AKA Ciro Narcisco, AKA Ciro
Narciso Matiano, AKA Ciro Narciso-
Matano,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 16-71029

Agency No. A077-961-338

MEMORANDUM*

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

Submitted March 12, 2019**

Before: LEAVY, BEA, and N.R. SMITH, Circuit Judges.

Ciro Narciso-Matiano, a native and citizen of Mexico and a legal permanent resident, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision finding him ineligible

* 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).

for withholding of removal and denying relief under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to consider Narciso-Matiano’s particularly serious crime contention. *See Pechenkov v. Holder*, 705 F.3d 444, 448-49 (9th Cir. 2012) (“[8 U.S.C.] § 1252(a)(2)(D) cannot restore jurisdiction to review a ‘particularly serious crime’ determination where” the challenge is that the agency “incorrectly assessed the facts”).

Substantial evidence supports the agency’s denial of deferral of removal under CAT because Narciso-Matiano failed to establish it is more likely than not that he would be tortured by or with the consent or acquiescence of the Mexican government. *See Aden v. Holder*, 589 F.3d 1040, 1047 (9th Cir. 2009).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.