

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 18 2019

FOR THE NINTH CIRCUIT

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

MAYOLO SALINAS-JIMENEZ, AKA
Mayolo Jimenez,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 14-73857

Agency No. A087-682-535

MEMORANDUM*

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

Submitted March 14, 2019**
San Francisco, California

Before: M. SMITH, WATFORD, and HURWITZ, Circuit Judges.

Mayolo Salinas-Jimenez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture (CAT). We deny

* 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 petition for review as to the agency's denial of asylum because substantial evidence supports the agency's determination that Salinas-Jimenez's asylum application was untimely. We deny the petition for review as to the agency's denial of withholding because substantial evidence supports the agency's finding that the persecution Salinas-Jimenez fears would not be on account of a protected ground. Substantial evidence also supports the agency's denial of Salinas-Jimenez's CAT claim.

1. Ordinarily, asylum seekers must file an asylum application within one year of their arrival in the United States. 8 U.S.C. § 1158(a)(2)(B). Salinas-Jimenez argues that changed and extraordinary circumstances excuse his admitted failure to do so. *See id.* § 1158(a)(2)(D). However, substantial evidence supports the agency's determination that Salinas-Jimenez failed to file his asylum application within a "reasonable period" of time in light of the changed and extraordinary circumstances asserted. 8 C.F.R. § 1208.4(a)(4)(ii), (a)(5). The events giving rise to Salinas-Jimenez's fear of persecution took place in October 2009, but Salinas-Jimenez did not file his asylum application until May 2011, more than a year and a half later. Salinas-Jimenez underwent kidney donation surgery in July 2010, but did not file his asylum application until nearly eight months after the end of his eight-week recovery. These facts do not compel the conclusion that Salinas-Jimenez filed his application within a reasonable period of time. *See*

Husyev v. Mukasey, 528 F.3d 1172, 1181–82 (9th Cir. 2008) (holding that “the term ‘reasonable period’ . . . suggests an amount of time that is to be determined on the basis of all the factual circumstances of the case”).

2. Substantial evidence supports the agency’s denial of Salinas-Jimenez’s withholding claim on the ground that he failed to establish a nexus between his feared persecution and a protected ground. While both Salinas-Jimenez and his cousin Mario Jimenez were living in the United States, Salinas-Jimenez provided information to the police about a murder committed by Mario. Mario fled to Mexico and was never apprehended. Salinas-Jimenez fears that, upon return to Mexico, Mario would torture or kill him because of his disclosures to the police. Salinas-Jimenez argues that this persecution would be on account of his membership in a particular social group consisting of “individuals that provided evidence to police about a murder.”

Even assuming that Salinas-Jimenez’s proposed social group is cognizable, he also “must establish that [his] persecution [would] be *on account of* his membership in such group.” *Ayala v. Holder*, 640 F.3d 1095, 1097 (9th Cir. 2011) (per curiam). In *Ayala*, we held that even assuming that “former military officers who suffer reprisals based on their prior prosecution of wrongdoers” is a cognizable social group, the petitioner failed to establish the requisite nexus to a protected ground because the persecution he suffered at the hands of drug dealers

whom he had arrested was motivated only by personal revenge. *Id.* at 1097–98.

Likewise, Salinas-Jimenez fails to establish the requisite nexus because the record supports the agency’s finding that “there is no evidence that [Salinas-Jimenez’s] cousin would be motivated to harm [Salinas-Jimenez] for any reason other than revenge.” There is no evidence that “group-based intimidation” would be a reason for the persecution Salinas-Jimenez fears, and “mistreatment motivated purely by personal retribution will not give rise to a valid asylum [or withholding] claim.” *Madrigal v. Holder*, 716 F.3d 499, 506 (9th Cir. 2013).

3. Substantial evidence supports the agency’s denial of Salinas-Jimenez’s CAT claim. The evidence, including news articles regarding violence and corruption in Mexico, does not compel the finding that Salinas-Jimenez would more likely than not be tortured in Mexico with the acquiescence of a government official.

PETITION FOR REVIEW DENIED.