

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 7 2020

FOR THE NINTH CIRCUIT

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

OSCAR O. FUENTES CANAS,

No. 19-71901

Petitioner,

Agency No. A092-169-454

v.

MEMORANDUM*

WILLIAM P. BARR, Attorney General,

Respondent.

On Petition for Review of an Order of the
Immigration Judge

Submitted February 4, 2020**

Before: FERNANDEZ, SILVERMAN, and TALLMAN, Circuit Judges.

Oscar O. Fuentes Canas, a native and citizen on El Salvador, petitions for review of an immigration judge's ("IJ") determination under 8 C.F.R. § 1208.31(a) that he did not have a reasonable fear of persecution or torture in El Salvador and thus is not entitled to relief from his reinstated removal order. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the IJ'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).

factual findings. *Andrade-Garcia v. Lynch*, 828 F.3d 829, 836 (9th Cir. 2016). We deny in part and grant in part the petition for review, and we remand.

In his opening brief, Fuentes Canas does not challenge the IJ's determination that he did not have a reasonable fear of torture in El Salvador. *See Rizk v. Holder*, 629 F.3d 1083, 1091 n.3 (9th Cir. 2011) (a petitioner waives an issue by failing to raise it in the opening brief).

As to Fuentes Canas's reasonable fear of persecution, the IJ found that Fuentes Canas's claim regarding his son's status as a police officer was not cognizable. However, the IJ failed to address Fuentes Canas's social group claim as it related to his family membership. *See Sagaydak v. Gonzales*, 405 F.3d 1035, 1040 (9th Cir. 2005) (the agency is "not free to ignore arguments raised by a petitioner."). Thus, we grant the petition for review and remand to the IJ for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

Fuentes Canas's motion for stay of removal (Docket Entry No. 1) is denied as moot.

The government shall bear the costs for this petition for review.

**PETITION FOR REVIEW DENIED in part; GRANTED in part;
REMANDED.**