

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 22 2021

FOR THE NINTH CIRCUIT

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

HUGO CORTEZ-PEREZ, AKA Hugo
Cortes-Perez, AKA Hugo Cortez, AKA
Hugo Perez-Cortez,

Petitioner,

v.

ROBERT M. WILKINSON, Acting
Attorney General,

Respondent.

No. 16-73409

Agency No. A088-659-507

MEMORANDUM*

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

Submitted February 17, 2021**

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges.

Hugo Cortez-Perez, 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

* 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).

removal, and relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Garcia-Milian v. Holder*, 755 F.3d 1026, 1031 (9th Cir. 2014). We deny the petition for review.

Cortez-Perez does not raise any challenge to the agency’s dispositive determination that his asylum application was time-barred and that he failed to establish any changed or extraordinary circumstances to excuse the untimely filing. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not specifically raised and argued in a party’s opening brief are waived). Thus, Cortez-Perez’s asylum claim fails.

Cortez-Perez also does not raise any challenge to the agency’s determination that the harm he experienced in Mexico did not rise to the level of persecution. *See id.* Substantial evidence supports the agency’s determination that Cortez-Perez did not establish a clear probability of future persecution in Mexico. *See Lanza v. Ashcroft*, 389 F.3d 917, 934-35 (9th Cir. 2004) (no clear probability of future persecution). Thus, Cortez-Perez’s withholding of removal claim fails.

Substantial evidence supports the agency’s denial of CAT relief because Cortez-Perez did not establish that it is more likely than not he would be tortured by or with the consent or acquiescence of the government if returned to Mexico. *See Aden v. Holder*, 589 F.3d 1040, 1047 (9th Cir. 2009).

As stated in the court's November 22, 2016 order, the temporary stay of removal remains in place until issuance of the mandate.

PETITION FOR REVIEW DENIED.