

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 28 2021

FOR THE NINTH CIRCUIT

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

YALE AUGUSTINE,

No. 19-70927

Petitioner,

Agency No. A092-022-066

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted April 20, 2021**

Before: THOMAS, Chief Judge, TASHIMA and SILVERMAN, Circuit Judges.

Yale Augustine, a native and citizen of Belize, petitions for review of the Board of Immigration Appeals order summarily affirming an immigration judge's ("IJ") decision finding him removable and denying his application for relief under the Convention Against Torture ("CAT"). Our jurisdiction is governed by

* 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).

8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to consider Augustine’s contention that the IJ erred in finding him removable. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (court lacks jurisdiction to consider claims not raised to agency).

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

We deny Augustine’s request for a remand so that he can apply for cancellation of removal. *See Pereida v. Wilkinson*, — U.S. —, 141 S.Ct. 754, 763 (2021).

The temporary stay of removal remains in place until issuance of the mandate. The motion for a stay of removal (Docket Entry No. 1) is otherwise denied.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.