

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 5 2021

FOR THE NINTH CIRCUIT

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

DOUGLAS ALBERTO QUINTEROS,

No. 15-71261

Petitioner,

Agency No. A094-347-898

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted April 30, 2021**

Before: GRABER, FRIEDLAND, and BENNETT, Circuit Judges.

Douglas Alberto Quinteros, a native and citizen of Honduras, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s decision denying his applications for asylum,

* 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).

withholding of removal, protection under the Convention Against Torture (“CAT”), and cancellation of removal.¹

Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law, *Cerezo v. Mukasey*, 512 F.3d 1163, 1166 (9th Cir. 2008), except to the extent that deference is owed to the BIA’s interpretation of the governing statutes and regulations, *Simeonov v. Ashcroft*, 371 F.3d 532, 535 (9th Cir. 2004). We review for substantial evidence the agency’s factual findings. *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006). We review for abuse of discretion the denial of a continuance. *See Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246 (9th Cir. 2008). We dismiss in part and deny in part the petition for review.

The agency did not abuse its discretion in denying Quinteros’s request for an additional continuance for lack of good cause. *See* 8 C.F.R. § 1003.29; *Ahmed v. Holder*, 569 F.3d 1009, 1012 (9th Cir. 2009) (factors considered in determining whether the denial of a continuance constitutes an abuse of discretion include the nature of the evidence excluded and the number of continuances previously granted). To the extent Quinteros claims the agency violated due process and his right to counsel, we lack jurisdiction to consider these claims because he did not

¹ Quinteros does not challenge the agency’s denial of his asylum application as untimely.

raise them before the BIA and they are the type of claimed due process violations that can be corrected by the BIA. *See* 8 U.S.C. § 1252(d)(1); *Sola v. Holder*, 720 F.3d 1134, 1135-36 (9th Cir. 2013) (per curiam) (holding that due process challenges correctable by the BIA must be exhausted).

We lack jurisdiction to review the agency’s denial of cancellation of removal based on the discretionary determination that Quinteros did not show exceptional and extremely unusual hardship to a qualifying relative. *See* 8 U.S.C. §§ 1229b, 1252(a)(2)(B)(i); *Mendez-Castro v. Mukasey*, 552 F.3d 975, 978 (9th Cir. 2009) (so holding). Quinteros has not raised a colorable constitutional or legal claim over which we retain jurisdiction under 8 U.S.C. § 1252(a)(2)(D).

Substantial evidence supports the agency’s conclusion that Quinteros failed to establish past persecution or a clear probability of persecution based on a protected ground. *See, e.g., Gu v. Gonzales*, 454 F.3d 1014, 1019 (9th Cir. 2006) (“[P]ersecution is an extreme concept [that] does not include every sort of treatment our society regards as offensive.”) (internal quotation marks omitted); *Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010) (an applicant’s “desire to be free from harassment by criminals motivated by theft or random violence by gang members bears no nexus to a protected ground”). Thus, Quinteros’s claim for withholding of removal fails.

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

PETITION FOR REVIEW DISMISSED in part; DENIED in part.