

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 28 2021

FOR THE NINTH CIRCUIT

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

EDWIN SAMUEL GALDAMEZ-SERPAS,

No. 20-70982

Petitioner,

Agency No. A206-496-253

v.

MEMORANDUM\*

MERRICK B. GARLAND, Attorney  
General,

Respondent.

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

Submitted September 14, 2021\*\*

Before: PAEZ, NGUYEN, and OWENS, Circuit Judges.

Edwin Samuel Galdamez-Serpas, a native and citizen of El Salvador, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture

---

\* 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).

(“CAT”). We have jurisdiction under 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 deny the petition for review.

The record does not compel the conclusion that Galdamez-Serpas established changed or extraordinary circumstances to excuse his untimely asylum application. *See* 8 U.S.C. § 1158(a)(2)(D); 8 C.F.R. § 1208.4(a)(4)-(5). Thus, Galdamez-Serpas’s asylum claim fails.

Substantial evidence supports the agency’s determination that Galdamez-Serpas failed to establish he suffered harm that rises to the level of persecution. *See Lim v. INS*, 224 F.3d 929, 936 (9th Cir. 2000) (“Threats standing alone . . . constitute past persecution in only a small category of cases, and only when the threats are so menacing as to cause significant actual ‘suffering or harm.’” (citation omitted)). Substantial evidence also supports the agency’s determination that Galdamez-Serpas failed to establish that the harm he fears would be on account of a protected ground, including membership in his proposed employment-based social groups. *See Ayala v. Holder*, 640 F.3d 1095, 1097 (9th Cir. 2011) (even if membership in a particular social group is established, an applicant must still show that “persecution was or will be *on account of* his membership in such group); *Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010) (a petitioner’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”).

In his opening brief, Galdamez-Serpas does not challenge the agency’s determination that he failed to establish a clear probability of future persecution on account of an actual or imputed political opinion. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013) (issues not specifically raised and argued in a party’s opening brief are waived).

Thus, Galdamez-Serpas’s withholding of removal claim fails.

In light of this disposition, we do not reach Galdamez-Serpas’s remaining contentions as to withholding of removal. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (courts and agencies are not required to decide issues unnecessary to the results they reach).

Substantial evidence supports the agency’s denial of CAT relief because Galdamez-Serpas failed to show it is more likely than not he would be tortured by or with the consent or acquiescence of the government if returned to El Salvador. *See Aden v. Holder*, 589 F.3d 1040, 1047 (9th Cir. 2009). We reject as unsupported by the record Galdamez-Serpas’s contention that the IJ erred in its analysis of his claim.

The temporary stay of removal remains in place until issuance of the mandate.

**PETITION FOR REVIEW DENIED.**