

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 16 2022

FOR THE NINTH CIRCUIT

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

JOSE SANTOS TORRES-ARIAS, AKA
Jose Santos Arias, AKA Jose Santos
Torresarias,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 18-70979

Agency No. A205-671-936

MEMORANDUM*

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

Submitted March 8, 2022**
Phoenix, Arizona

Before: PAEZ, CLIFTON, and WATFORD, Circuit Judges.

Jose Santos Torres-Arias, a native and citizen of Mexico, petitions for review of a decision of the Board of Immigration Appeals upholding the immigration judge's denial of his applications for withholding of removal and

* 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).

protection under the Convention Against Torture (CAT). We deny the petition.

1. Substantial evidence supports the agency's determination that petitioner is ineligible for withholding of removal because he failed to establish a nexus between any harm and a protected ground. To qualify for withholding, a petitioner must show a "clear probability" of persecution in the country of removal on account of his race, religion, nationality, membership in a particular social group, or political opinion. 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 208.16(b); *Navas v. INS*, 217 F.3d 646, 655 (9th Cir. 2000).

Torres-Arias asserts the proposed particular social group of his family. While "family membership may constitute membership in a particular social group," *Bhasin v. Gonzalez*, 423 F.3d 977, 984 (9th Cir. 2005) (internal quotation marks and citation omitted), the agency properly found that any animus directed at Torres-Arias from the Marquez family stemmed from his role in the accidental death of a member of the Marquez family, not from petitioner's membership in his own family. Torres-Arias has thus failed to demonstrate the required nexus to a protected ground.

2. Substantial evidence also supports the agency's determination that Torres-Arias did not qualify for CAT protection. To be entitled to CAT protection, Torres-Arias must establish that, if returned to his home country, he is "more likely than not" to face torture by or with the government's acquiescence. 8 C.F.R.

§ 208.16(c)(2).

As the agency concluded, although Torres-Arias may face some risk of harm in his hometown and the larger community of Tepic, given that a member of the Marquez family now serves as mayor of petitioner's hometown, the record evidence shows that he does not face a "clear probability" of torture outside of those circumscribed areas of Mexico. *Zhang v. Ashcroft*, 388 F.3d 713, 721–22 (9th Cir. 2004). There is no indication that the agency failed to consider all relevant evidence, and the record evidence does not compel a conclusion contrary to that reached by the agency. *See Zheng v. Holder*, 644 F.3d 829, 835 (9th Cir. 2011).

3. Torres-Arias's argument that the agency lacked jurisdiction over proceedings in this case is foreclosed by *Karingithi v. Whitaker*, 913 F.3d 1158, 1160–62 (9th Cir. 2019).

PETITION FOR REVIEW DENIED.