

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 15 2022

FOR THE NINTH CIRCUIT

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

MARIO ALBERTO VERDUZCO-GOMEZ,
AKA Mario Gomez, AKA Mario Alberto
Gomez,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 16-74050

Agency No. A095-759-541

MEMORANDUM*

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

Submitted April 11, 2022**

Before: McKEOWN, CHRISTEN, and BRESS, Circuit Judges.

Mario Alberto Verduzco-Gomez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application 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, and relief under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Conde Quevedo v. Barr*, 947 F.3d 1238, 1241 (9th Cir. 2020). We deny in part and dismiss in part the petition for review.

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

Substantial evidence supports the agency’s determination that Verduzco-Gomez failed to establish the harm he fears would be on account of a protected ground. *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) (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”).

To the extent Verduzco-Gomez raises a family-based particular social group, we lack jurisdiction to consider it because he failed to raise the issue before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (court lacks jurisdiction to review claims not presented to the agency).

Thus, Verduzco-Gomez's withholding of removal claim fails.

Substantial evidence supports the agency's denial of CAT relief because Verduzco-Gomez 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 Mexico. *See Aden v. Holder*, 589 F.3d 1040, 1047 (9th Cir. 2009).

We reject as unsupported by the record Verduzco-Gomez's contentions that the agency applied an incorrect standard, ignored evidence, or otherwise erred in the analysis of his claims.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.