

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 19 2022

FOR THE NINTH CIRCUIT

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

JUAN JOSE SACCHE,

No. 16-71545

Petitioner,

Agency No. A095-805-609

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted July 12, 2022**

Before: SCHROEDER, R. NELSON, and VANDYKE, Circuit Judges.

Juan Jose Sacche, a native and citizen of Guatemala, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT").

* 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).

Our jurisdiction is governed by 8 U.S.C § 1252. We review for substantial evidence the agency's factual findings. *Silaya v. Mukasey*, 524 F.3d 1066, 1070 (9th Cir. 2008). We deny in part and dismiss in part the petition for review.

In his opening brief, Sacche does not raise and therefore waives any challenge to the BIA's determination that his asylum application was untimely. *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, we deny the petition for review as to Sacche's asylum claim.

Sacche also does not raise and therefore waives any challenge to the BIA's determination that the harm he suffered did not rise to the level of persecution. *See id.* Substantial evidence supports the BIA's determination that Sacche failed to establish a clear probability of future persecution because he did not demonstrate that he could not reasonably relocate within Guatemala. *See* 8 C.F.R. § 1208.16(b)(2)-(3); *Lanza v. Ashcroft*, 389 F.3d 917, 934-35 (9th Cir. 2004). Thus, Sacche's withholding of removal claim fails.

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

We lack jurisdiction to consider Sacche's contentions regarding political opinion, cancellation of removal, adjustment of status, and other discretionary relief because these issues were not presented to the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (petitioner must exhaust issues or claims in administrative proceedings below).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.