

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 3 2022

FOR THE NINTH CIRCUIT

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

ALEXANDER MATEO-JUAREZ,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 20-73121

Agency No. A205-054-062

MEMORANDUM*

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

Submitted October 3, 2022**
Pasadena, California

Before: TASHIMA and LEE, Circuit Judges, and FREUDENTHAL,** District
Judge.

* 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).

*** The Honorable Nancy D. Freudenthal, United States District Judge for
the District of Wyoming, sitting by designation.

Alexander Mateo-Juarez, a native and citizen of Guatemala, seeks review of a decision from the Board of Immigration Appeals (BIA) affirming the denial of his requests for withholding of removal and relief under the Convention Against Torture (CAT). Mateo-Juarez states he fears he will be persecuted and/or tortured if removed to Guatemala because of his imputed political opinions and membership in a particular social group comprised of ethnically indigenous people, family or kinship ties, and/or landowners. We have jurisdiction under 8 U.S.C. § 1252. We deny the petition.

We review agency denials of withholding of removal and relief under CAT for substantial evidence. *Yali Wang v. Sessions*, 861 F.3d 1003, 1007 (9th Cir. 2017). Under this standard, we must uphold the agency’s determination unless any reasonable trier of fact “would be compelled” to conclude the contrary based on the evidence in the record. *Villavicencio v. Sessions*, 904 F.3d 658, 663–64 (9th Cir. 2018) (as amended).

1. Substantial evidence supports the agency’s denial of withholding of removal.

First, substantial evidence supports the agency’s conclusion that Mateo-Juarez failed to show a clear probability of future persecution based on his imputed political opinions. Mateo-Juarez testified that his father was beaten unconscious in Guatemala because of his political opinions and political party membership. But

Mateo-Juarez does not claim to be a member of any political party and there is no direct evidence that anyone in Guatemala believes Mateo-Juarez shares his father's opinions. *See Ahmed v. Keisler*, 504 F.3d 1183, 1192 (9th Cir. 2007) ("A political opinion can be an actual opinion held by the applicant, or an opinion imputed to him or her by the persecutor."). We also conclude that the beating Mateo-Juarez endured in *Mexico* does not compel a reversal of the agency's conclusion that Mateo-Juarez failed to carry his burden of proving a clear probability he will be persecuted in *Guatemala* because of his father's political opinions.

Second, substantial evidence supports the agency's finding that Mateo-Juarez failed to show a clear probability of future persecution because of his indigenous ethnicity. Mateo-Juarez's description of the repeated beatings he endured at school do not compel a finding of past persecution. *See Sharma v. Garland*, 9 F.4th 1052, 1063 (9th Cir. 2021). One of the most significant factors this court considers is "whether the petitioner was subject to significant physical violence, and, relatedly, whether he suffered serious injuries that required medical treatment." *Id.* at 1061. Here, the only injury Mateo-Juarez identified from the beatings was a bloody nose. Additionally, after Mateo-Juarez left school, he remained in Guatemala for over a year without incident. *See Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000) (Indo-Fijian's fear of future persecution undermined by two-year stay in Fiji after incidents of harm).

Third, substantial evidence supports the agency's conclusion that Mateo-Juarez failed to show a clear probability of future persecution based on landownership. Although landownership may form the basis of a particular social group, *Cordoba v. Holder*, 726 F.3d 1106, 1114 (9th Cir. 2013), Mateo-Juarez has never himself owned any land in Guatemala. Additionally, there is no evidence that Mateo-Juarez would be persecuted because of his family's prior landownership.

Fourth, substantial evidence supports the agency's conclusion that Mateo-Juarez failed to show a clear probability of future persecution based on kinship or family ties. There is no evidence that Mateo-Juarez's grandfather, mother, or four siblings have experienced any problems in the past decade while living in Guatemala. *See Hakeem v. INS*, 273 F.3d 812, 816 (9th Cir. 2001) (noting an applicant's claim of persecution upon return "is weakened, even undercut, when similarly-situated family members continue to live in the country without incident").

We thus affirm the agency's denial of withholding of removal.

2. Substantial evidence supports the agency's denial of relief under CAT. "To be eligible for relief under CAT, an applicant bears the burden of establishing that she will more likely than not be tortured with the consent or acquiescence of a public official if removed to her native country." *Xochihua-Jaimes v. Barr*, 962 F.3d 1175, 1183 (9th Cir. 2020). "Torture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment

or punishment.” *Al-Saher v. INS*, 268 F.3d 1143, 1147 (9th Cir. 2001) (quoting 8 C.F.R. § 208.18(a)(2)).

The only harm Mateo-Juarez identified that he suffered personally in Guatemala is the repeated beatings he endured while at school. But once Mateo-Juarez left school, he remained in Guatemala for over a year without incident. Moreover, Mateo-Juarez’s grandfather, mother, and four siblings remain in Guatemala, and there is no evidence that they have experienced any problems—yet alone torture—in the last decade. We thus affirm the agency’s denial of relief under CAT.

PETITION FOR REVIEW DENIED.