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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANCISCO SANTANA-AVILES,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 20-70998

Agency No. A209-158-373

MEMORANDUM*

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

Submitted November 16, 2022**
San Jose, California

Before: SCHROEDER, GRABER, and FRIEDLAND, Circuit Judges.

* 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).

Petitioner Francisco Santana-Aviles, a native and citizen of Mexico, timely petitions for review of the Board of Immigration Appeals’ (“BIA”) denial of his application for withholding of removal.¹

The BIA’s decision rested on an adverse credibility ruling that is supported by substantial evidence. Petitioner contended that he faced persecution on account of his family group, but his position was not consistent with the evidence of his repeated visits to Mexico and the absence of evidence of recent harm or threats to his family members. *See Loho v. Mukasey*, 531 F.3d 1016, 1018 (9th Cir. 2008) (determining that the petitioner’s two voluntary return trips to her home country supported the Immigration Judge’s adverse credibility finding); *see also Li v. Garland*, 13 F.4th 954, 959-60 (9th Cir. 2021) (discussing the standards governing adverse credibility determinations).

Any possible jurisdictional challenge due to a defective Notice to Appear is foreclosed by our decision in *United States v. Bastide-Hernandez*, 39 F.4th 1187, 1192-94 (9th Cir. 2022) (en banc).

PETITION DENIED.

¹ Petitioner did not appeal to the BIA the Immigration Judge’s denial of his claim for protection under the Convention Against Torture (“CAT”), and the BIA accordingly held that claim was waived. Petitioner does not challenge that determination in his petition, or otherwise specifically address his CAT claim, so we do not address it.