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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICARDO ARREGUIN-CRUZ,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 22-378

Agency No. A206-547-677

MEMORANDUM*

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

Submitted April 19, 2023**
Portland, Oregon

Before: RAWLINSON and SUNG, Circuit Judges, and MORRIS,*** 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 Brian M. Morris, United States District Judge for the
District of Montana, sitting by designation.

Ricardo Arreguin-Cruz (Arreguin-Cruz), a native and citizen of Mexico, petitions for review of a decision of the Board of Immigration Appeals (BIA) dismissing his appeal of the denial by an Immigration Judge (IJ) of withholding of removal and protection under the Convention Against Torture (CAT). We have jurisdiction under 8 U.S.C. § 1252(a), and we deny the petition.

We review the denials of withholding of removal and CAT relief for substantial evidence. *See Flores Molina v. Garland*, 37 F.4th 626, 632 (9th Cir. 2022). We review questions of law de novo. *See id.* If the agency cites *Matter of Burbano*, 20 I. & N. Dec. 872 (BIA 1994), and also “provides its own review of the evidence and law, we review both the IJ’s and the BIA’s decisions.” *Ruiz-Colmenares v. Garland*, 25 F.4th 742, 748 (9th Cir. 2022) (citation omitted).

An applicant for withholding of removal has the burden of establishing by a “clear probability” that he will be persecuted in the proposed country of removal. *Garcia v. Wilkinson*, 988 F.3d 1136, 1146 (9th Cir. 2021). An applicant must also demonstrate that the protected ground would be “a reason” for feared future persecution. *Id.* (citation omitted)

1. Arreguin-Cruz proposed a social group of “disabled person[s] unable to protect [themselves] from violence.” However, Arreguin-Cruz’s proposed social group “include[s] large numbers of people with different conditions and in

different circumstances.” *Mendoza-Alvarez v. Holder*, 714 F.3d 1161, 1164 (9th Cir. 2013) (per curiam) (citation and quotation marks omitted). Such a group is not cognizable under our precedent. *See id.*

2. Arreguin-Cruz also fears returning to Mexico because he has resided in the United States for a lengthy period. He contends that as a result of his time in America he will be perceived as wealthy. However, as with his other proposed social group, our precedent forecloses the cognizability of the “proposed group of imputed wealthy Americans.” *Ramirez-Munoz v. Lynch*, 816 F.3d 1226, 1229 (9th Cir. 2016) (citation and internal quotation marks omitted).

3. A petitioner is eligible for CAT relief if the petitioner establishes that it is “more likely than not that he . . . would be tortured if removed to the proposed country of removal.” *Sharma v. Garland*, 9 F.4th 1052, 1067 (9th Cir. 2021) (citation omitted). The torture must be “inflicted by or at the instigation of or with the consent or acquiescence of a public official.” *Id.* (citation and alteration omitted). A petitioner must also establish that “[he], in particular,” is at risk of torture. *Garcia*, 988 F.3d at 1147 (citation omitted). Arreguin-Cruz presented evidence that disabled individuals are abused at facilities in Mexico housing individuals with disabilities. He also proffered evidence that Mexico has failed to adequately protect the rights of its disabled citizens. However, this evidence does

not compel the conclusion that Arreguin-Cruz will be tortured if returned to Mexico. The probability of torture is too speculative because Arreguin-Cruz presented no evidence that he is likely to be admitted to a home for disabled individuals or that those with his disability are likely to be tortured. *See Hernandez v. Garland*, 52 F.4th 757, 772 (9th Cir. 2022); *see also Acevedo Granados v. Garland*, 992 F.3d 755, 765 (9th Cir. 2021). Substantial evidence supports the denial of CAT relief because Arreguin-Cruz failed to establish that he, “in particular,” would be tortured, *see Garcia*, 988 F.3d at 1147, or that torture would occur “with the consent or acquiescence of a public official.” *Sharma*, 9 F.4th at 1067.

PETITION DENIED.