

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 24 2023

FOR THE NINTH CIRCUIT

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

JOSE ARELLANO-CARDENAS, AKA Jose
Ramos-Gonzalez,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 20-71261

Agency No. A091-691-292

MEMORANDUM*

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

Submitted April 17, 2023**

Before: CLIFTON, R. NELSON, and BRESS, Circuit Judges.

Jose Arellano-Cardenas, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his applications for asylum, withholding of removal, and protection under the Convention Against Torture

* 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).

(“CAT”), and denying his motion to remand and terminate. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We review for substantial evidence the agency’s factual findings. *Sanchez v. Holder*, 704 F.3d 1107, 1109 (9th Cir. 2012). We review for abuse of discretion the denial of motions to remand and to terminate proceedings. *Movsisian v. Ashcroft*, 395 F.3d 1095, 1098 (9th Cir. 2005); *Dominguez v. Barr*, 975 F.3d 725, 734 (9th Cir. 2020). We deny the petition for review.

The agency did not err by admitting into evidence documentation of Arellano-Cardenas’s 1992 and 2015 convictions. *See Sanchez*, 704 F.3d at 1109 (“[T]he sole test for admission of evidence is whether the evidence is probative and its admission is fundamentally fair.” (citation and internal quotation marks omitted)); *see also* 8 U.S.C. §§ 1229a(c)(3)(B), (C); 8 C.F.R. § 1003.41(d). Thus, Arellano-Cardenas has not established any error in the agency’s conclusion that he is removable. *See Sinotes-Cruz v. Gonzales*, 468 F.3d 1190, 1196 (9th Cir. 2006).

Substantial evidence supports the agency’s denial of CAT protection because Arellano-Cardenas failed to show it is more likely than not he will 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).

The BIA did not abuse its discretion in denying Arellano-Cardenas’s motion

to remand and terminate where his contention that the IJ lacked jurisdiction over his proceedings is foreclosed by *United States v. Bastide-Hernandez*, 39 F.4th 1187, 1188, 1193 (9th Cir. 2022) (en banc) (lack of hearing information in notice to appear does not deprive immigration court of subject matter jurisdiction, and 8 C.F.R. § 1003.14(a) is satisfied when later notice provides hearing information).

The temporary stay of removal remains in place until the mandate issues.

PETITION FOR REVIEW DENIED.