

NOT FOR PUBLICATION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 LUIS CENTENO-VALDIVIA,

No. 20-72707

Petitioner,

Agency No. A098-486-741

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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 Luis Centeno-Valdivia, a native and citizen of Nicaragua, 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 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”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings, applying the standards governing adverse credibility determinations under the REAL ID Act. *Shrestha v. Holder*, 590 F.3d 1034, 1039-40 (9th Cir. 2010). We deny the petition for review.

Substantial evidence supports the agency’s adverse credibility determination based on inconsistencies between Centeno-Valdivia’s testimony and declaration as to the number of Sandinistas who attacked him on July 13, 2003, inconsistencies between his testimony and Form I-213 as to his initial departure from Nicaragua, and inconsistencies between his testimony and the Record of Sworn Statement as to his last entry to the United States and whether he feared returning to Nicaragua. *See id.* at 1048 (adverse credibility determination reasonable under “the totality of the circumstances”). Centeno-Valdivia’s explanations do not compel a contrary conclusion. *See Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000). We reject as unsupported by the record Centeno-Valdivia’s contention that the IJ failed to consider his explanations. Thus, in the absence of credible testimony Centeno-Valdivia’s withholding of removal claim fails. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

We do not reach Centeno-Valdivia’s merits-based contentions regarding his eligibility for withholding of removal because the BIA did not deny relief on those

grounds. *See Santiago-Rodriguez v. Holder*, 657 F.3d 820, 829 (9th Cir. 2011) (review limited to the grounds relied on by the BIA).

Substantial evidence supports the agency's denial of CAT protection because Centeno-Valdivia 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 Nicaragua. *See Aden v. Holder*, 589 F.3d 1040, 1047 (9th Cir. 2009); *see also Wakkary v. Holder*, 558 F.3d 1049, 1067-68 (9th Cir. 2009) (no likelihood of torture).

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

PETITION FOR REVIEW DENIED.