

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 25 2023

FOR THE NINTH CIRCUIT

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

JOSE GUEVARA-RENDEROS; et al.,

No. 21-70917

Petitioners,

Agency Nos. A070-934-207
A208-976-213

v.

MERRICK B. GARLAND, Attorney
General,

MEMORANDUM*

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 Guevara-Renderos and his minor son, natives and citizens of El Salvador, petition pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing their appeal from an immigration judge's ("IJ") decision denying their applications for asylum, withholding of removal, and protection under the

* 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).

Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo the legal question of whether a particular social group is cognizable, except to the extent that deference is owed to the BIA’s interpretation of the governing statutes and regulations. *Conde Quevedo v. Barr*, 947 F.3d 1238, 1241-42 (9th Cir. 2020). We review for substantial evidence the agency’s factual findings. *Id.* at 1241. We deny in part and dismiss in part the petition for review.

The BIA did not err in concluding that Guevara-Renderos failed to establish membership in a cognizable particular social group. *See Reyes v. Lynch*, 842 F.3d 1125, 1131 (9th Cir. 2016) (to demonstrate membership in a particular social group, “[t]he applicant must ‘establish that the group is (1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question’” (quoting *Matter of M-E-V-G-*, 26 I. & N. Dec. 227, 237 (BIA 2014))); *see also Conde Quevedo*, 947 F.3d at 1243 (petitioner’s proposed social group was not cognizable because of the absence of society-specific evidence of social distinction). Thus, Guevara-Renderos’s asylum and withholding of removal claims fail.

To the extent Guevara-Renderos raises a new proposed particular social group in his opening brief, we lack jurisdiction to consider it. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (court lacks jurisdiction to review

claims not presented to the agency).

Because petitioners do not challenge the agency's denial of Guevara-Renderos's application for CAT protection or minor petitioner's applications for relief, we do not address them. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013).

We do not reach petitioners' contentions regarding the particularly serious crime bar because the agency did not decide the issue. *See Andia v. Ashcroft*, 359 F.3d 1181, 1184 (9th Cir. 2004) ("In reviewing the decision of the BIA, we consider only the grounds relied upon by that agency.").

We lack jurisdiction to consider petitioners' contentions that the IJ failed to follow precedent, fully analyze their claims, or advise Guevara-Renderos of the availability of relief, because they did not raise these issues to the BIA. *See Barron*, 358 F.3d at 677-78.

We reject as unsupported by the record petitioners' due process contentions that the BIA failed to fully analyze their claim, adequately explain its decision, or otherwise erred in the analysis of their claims.

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

PETITION FOR REVIEW DENIED in part; DISMISSED in part.