

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 16 2023

FOR THE NINTH CIRCUIT

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

GURPREET SINGH,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 22-1317

Agency No. A209-156-988

MEMORANDUM*

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

Submitted May 12, 2023**
San Francisco, California

Before: FRIEDLAND, BENNETT, Circuit Judges and BENNETT***, District
Judge.

Petitioner Gurpreet Singh is a native and citizen of India. He petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his 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).

*** The Honorable Richard D. Bennett, United States District Judge of Maryland, sitting by designation.

Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252, and we review for substantial evidence the BIA’s factual findings. *Shrestha v. Holder*, 590 F.3d 1034, 1039–40 (9th Cir. 2010). We review questions of law de novo. *Tamang v. Holder*, 598 F.3d 1083, 1088 (9th Cir. 2010).¹ We deny the petition for review.

Assessing Petitioner’s asylum claim, the BIA permissibly concluded that Petitioner’s past experiences “were not sufficiently extreme to rise to the level of persecution.”² “Persecution is an extreme concept that does not include every sort of treatment our society regards as offensive.” *Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1028 (9th Cir. 2019) (internal quotation marks and citation omitted). Petitioner, who was 16, was twice attacked and beaten by supporters of the Akali Dal Badal and BJP parties. His injuries included bruising, a bloody nose, and a cut from falling off his bike. His injuries appeared to have quickly healed. While we agree with the BIA that the “harm that the [Petitioner] experienced in India was serious and unjustifiable,” we also agree with the BIA

¹ As discussed in *Flores Molina v. Garland*, 37 F.4th 626, 633 n.2 (9th Cir. 2022), the standard of review for past persecution is currently unsettled. Compare *Kaur v. Wilkinson*, 986 F.3d 1216, 1221 (9th Cir. 2021) (reviewing de novo whether particular acts constitute persecution), with *Sharma v. Garland*, 9 F.4th 1052, 1060 (9th Cir. 2021) (applying substantial evidence standard). We need not “discuss the nuances of the two standards” because, even applying de novo review, the harm Petitioner experienced does not amount to persecution. See *Flores Molina*, 37 F.4th at 633 n.2.

² Because Petitioner did not establish past persecution, he is ineligible for humanitarian asylum. See 8 C.F.R. § 208.13(b)(1)(ii).

that “considering all past harm cumulatively, . . . and taking into account that the [Petitioner] was a teenager at the time of the two attacks . . . his past experiences were not sufficiently extreme to rise to the level of persecution.”³ *See Gu v. Gonzales*, 454 F.3d 1014, 1019–21 (9th Cir. 2006) (concluding that a brief detention, beating and interrogation did not compel a finding of past persecution); *Wakkary v. Holder*, 558 F.3d 1049, 1059–60 (9th Cir. 2009) (holding that two separate beatings, without more, did not compel a finding of past persecution).

Petitioner has also not established a clear probability of future persecution upon return to India. His father, who is also a Mann Party supporter, lives there safely. *See Sharma*, 9 F.4th at 1066 (“The ongoing safety of family members in the petitioner’s native country undermines a reasonable fear of future persecution.”). And while Petitioner’s assailants have threatened him, and asked about his whereabouts, substantial evidence supports the BIA’s determination that the threats and inquiries are not so extreme or particularized as to create a reasonable fear of future persecution.

Because Petitioner did not establish his eligibility for asylum, his withholding of removal claim was properly denied on the same bases. *See*

³ Our cases establish that age “may bear heavily on the question of whether an applicant was persecuted or whether she holds a well-founded fear of future persecution.” *See Hernandez-Ortiz v. Gonzales*, 496 F.3d 1042, 1045 (9th Cir. 2007) (internal quotation marks and citation omitted). But that does not automatically mean that all attacks on a teenager constitute persecution, and none of our cases stand for such a proposition.

Garcia v. Wilkinson, 988 F.3d 1136, 1146 (9th Cir. 2021). Nor did Petitioner establish eligibility for relief under CAT. The record evidence does not compel the conclusion that it is more likely than not that he would suffer harm rising to the level of torture by government officials or private actors with government acquiescence if returned to India. *See Singh v. Whitaker*, 914 F.3d 654, 662–63 (9th Cir. 2019).

The petition is **DENIED**.