

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 23 2023

FOR THE NINTH CIRCUIT

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

JORDAN CARDENAS-BAUTISTA,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 22-968

Agency No.
A088-660-044

MEMORANDUM*

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

Submitted June 14, 2023**
Portland, Oregon

Before: TALLMAN, RAWLINSON, and SUNG, Circuit Judges.

Jordan Cardenas-Bautista, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' (BIA) decision dismissing his appeal of the Immigration Judge's (IJ) denial of asylum, withholding of removal, and protection under the Convention Against Torture (CAT). "We review the legal determinations of the BIA de novo and the factual

* 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).

determinations for substantial evidence. Substantial evidence review requires us to uphold the BIA’s determination unless the evidence compels a contrary conclusion.” *Gonzalez-Castillo v. Garland*, 47 F.4th 971, 976 (9th Cir. 2022) (citation and internal quotation marks omitted). We have jurisdiction pursuant to 8 U.S.C. § 1252 and we deny the petition.

1. Substantial evidence supports the BIA’s determination that Cardenas-Bautista did not establish that he was persecuted on account of a protected ground. The record does not compel the conclusion that Cardenas-Bautista was an informant. *Cf. Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1091–93 (9th Cir. 2013) (en banc) (concluding that an “informant” was part of a cognizable social group under the circumstances because the petitioner’s testimony in open court against the gang members who killed her father made her “highly visible and recognizable by others”). Cardenas-Bautista did not testify against the murderer or submit evidence that led to his conviction. *See id.* Instead, Cardenas-Bautista presented a defense and testified in his own criminal proceeding to prove his innocence.

2. The record does not compel the conclusion that Cardenas-Bautista’s family relationship “was one central reason or even a reason” for his past harm or fear of future harm. *Santos-Ponce v. Wilkinson*, 987 F.3d 886, 890 (9th Cir. 2021). As the BIA noted, “[Cardenas-Bautista’s] parents, sisters, and brother-in-law have remained in [Jojutla] without harm.” If anything, it is more likely that Cardenas-Bautista would be harmed “due to his association with the

doctor's murder.” *See Kaur v. Garland*, 2 F.4th 823, 834–35 (9th Cir. 2021) (“It is a persecuting group’s motive . . . that is crucial to a determination of whether a petitioner is entitled to” relief.) (citation, alteration, and internal quotation marks omitted). The threats Cardenas-Bautista received were related to his suspected involvement with the murder. Cardenas-Bautista even testified that he believed he would be harmed because he “cooperated with the police.”

3. Substantial evidence supports the denial of CAT relief. The record does not compel the conclusion that Cardenas-Bautista, if removed, he would more likely than not be tortured “by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” *Parada v. Sessions*, 902 F.3d 901, 914 (9th Cir. 2018) (citation omitted). Cardenas-Bautista provided no compelling evidence that the Mexican police supplied information regarding his deportation to the men he feared. *See Xiao Fei Zheng v. Holder*, 644 F.3d 829, 835–36 (9th Cir. 2011) (explaining that speculative assertions are insufficient to support a CAT claim). Although Cardenas-Bautista proffered expert testimony explaining that the Mexican government is intertwined with organized crime, the police involved in Cardenas-Bautista’s case released him after he was exonerated, and proceeded against the actual killer. And after reviewing the country conditions reports, the BIA reasonably determined that the Mexican government is engaged in efforts to combat violence. *See Andrade-Garcia v. Lynch*, 828 F.3d 829, 836 (9th Cir.

2016), *as amended* (holding that “general ineffectiveness” in the government’s response to crime “will not suffice to show acquiescence”).

4. Cardenas-Bautista’s argument that he was prejudiced by the IJ’s failure to fully credit his testimony relating to his past torture is without merit. Any potential prejudice from the IJ’s adjudication was alleviated by the BIA’s assumption that Cardenas-Bautista was “fully credible.” *See Brezilien v. Holder*, 569 F.3d 403, 411 (9th Cir. 2009), *as amended* (concluding that “any error committed by the IJ will be rendered harmless by the [BIA’s] application of the correct legal standard”) (citation and alteration omitted).

PETITION DENIED.