

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 24 2023

FOR THE NINTH CIRCUIT

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

JUANA CORDOVA MARTINEZ, et al.,

No. 22-642

Petitioners,

Agency Nos. A209-162-384

v.

A209-162-386

MERRICK B. GARLAND, Attorney
General,

A209-162-376

A206-352-099

A209-162-385

A209-162-377

A209-162-375

Respondent.

MEMORANDUM*

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

Submitted July 17, 2023**

Before: HAWKINS, S.R. THOMAS, and McKEOWN, Circuit Judges.

Lead Petitioner Juana Cordova Martinez (“Cordova Martinez”); her husband
Rafael Andrade Martinez; their two minor children J.D.A.C. and J.A.A.C.; their

* 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).

adult child Juana Andrade Cordova (“Juana”); and Juana’s two minor children J.R.S.A. and J.G.S.A, (collectively, “Petitioners”), all natives and citizens of Mexico, petition pro se for review of a Board of Immigration Appeals’ (“BIA”) order. The BIA summarily affirmed the Immigration Judge’s (“IJ”) decision denying Petitioners’ applications for asylum, withholding of removal, and relief under the Convention Against Torture. We have jurisdiction under 8 U.S.C. § 1252. Where, as here, the BIA summarily affirms the IJ’s decision, we review the IJ’s decision as the final agency determination. *Renteria-Morales v. Mukasey*, 551 F.3d 1076, 1081 (9th Cir. 2008). We deny the petition.

Substantial evidence supports the agency’s conclusion that Petitioners failed to establish a sufficient nexus between the alleged harm suffered, and membership in the particular social group (“PSG”) of “members of the Cordova Martinez family.” *See Lkhagvasuren v. Lynch*, 849 F.3d 800, 802 (9th Cir. 2016) (per curiam). Petitioners’ requested relief stems from the deaths of two family members and the disappearance of another, as well as threats to Petitioners themselves. Yet, Petitioners could not identify the individuals who abducted or killed their family members, nor could they describe a connection between the incidents. Similarly, Petitioners did not know the individuals who threatened them on four separate occasions. In the absence of any evidence regarding the persecutors’ potential

motives, the IJ reasonably concluded that Petitioners failed to establish nexus to a protected ground. *See Flores-Vega v. Barr*, 932 F.3d 878, 887 (9th Cir. 2019).¹

Substantial evidence likewise supports the IJ's determination that Petitioners failed to carry their burden of proving that they had a well-founded fear of persecution in Mexico. Cordova Martinez and her husband were twice threatened with negative consequences in connection with their search for their missing son. They reported the threats to the police and continued their search without further incident. The record does not compel the conclusion that any of the men who threatened Petitioners had a continued interest in them. *See Sharma v. Garland*, 9 F.4th 1052, 1065 (9th Cir. 2021).

Because Petitioners failed to satisfy the lower standard for asylum, they necessarily failed to meet the more stringent standard for withholding of removal. *See Mansour v. Ashcroft*, 390 F.3d 667, 673 (9th Cir. 2004).

Substantial evidence also supports the IJ's denial of CAT relief because Petitioners failed to show they will more likely than not be tortured by or with the consent or acquiescence of the government if returned to Mexico. *See Xochihua-Jaimes v. Barr*, 962 F.3d 1175, 1183 (9th Cir. 2020); 8 C.F.R. § 1208.16(c)(2). Petitioners have not been tortured in the past, nor have they met their burden of

¹ Given the lack of nexus, we need not address whether Petitioners' proposed PSG made up of members of the Cordova Martinez family is cognizable in this case.

demonstrating an individualized risk of torture. *See Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010) (per curiam) (holding that “generalized evidence of violence and crime in Mexico is not particular to Petitioners and is insufficient to meet [the CAT] standard”).

Finally, Petitioners have neither preserved nor exhausted the remainder of their claims. To the extent that Petitioners raise constitutional challenges and request cancellation of removal for the first time in their opening brief, we decline to consider these claims. *See Santos-Zacaria v. Garland*, 143 S. Ct. 1103, 1112 (2023) (holding that 8 U.S.C. § 1252(d)(1)’s administrative exhaustion requirement is a “quintessential claim-processing rule,” not a jurisdictional bar).

PETITION DENIED.²

² Because we deny the petition for review, we also deny as moot Petitioners’ motion for stay of removal (ECF No. 2).