NOT FOR PUBLICATION

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ERIKA M. MEDRANO SEGOVIA; ALAN O. MARQUEZ MEDRANO, Petitioners, v. MERRICK B. GARLAND, Attorney General, Respondent.	No. 22-186 Agency Nos. A216-566-076 A216-566-077 MEMORANDUM*

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

Submitted July 27, 2023**

Before: OWENS, LEE, and BUMATAY, Circuit Judges.

Erika M. Medrano Segovia and her minor son ("Petitioners") seek review of the Board of Immigration Appeals' (BIA) decision, affirming the Immigration Judge's (IJ) denial of their applications for asylum, statutory withholding of

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* 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).

removal, and Convention Against Torture ("CAT") relief. We review an agency's factual determinations for substantial evidence. *See Gu v. Gonzales*, 454 F.3d 1014, 1018 (9th Cir. 2006) ("We will affirm the BIA's decision if it is 'supported by reasonable, substantial, and probative evidence on the record considered as a whole.'") (quoting *INS v. Elias-Zacarias*, 502 U.S. 478, 481 (1992)). We deny the petition.

1. Substantial evidence supports the BIA's determination that petitioners did not establish that the government of El Salvador was or is unable or unwilling to control the agents of any past persecution or feared future persecution. *See Castro-Perez v. Gonzales*, 409 F.3d 1069, 1072 (9th Cir. 2005) (record did not compel a finding that the government was unwilling or unable to control the feared harm). Salvadoran police are investigating the murder of Segovia's sister-in-law, and arrested her nephews for gang-related criminal activity. The record reflects other meaningful investigative efforts by law enforcement against gang violence. And Segovia's reference to country condition reports does not compel a contrary conclusion. *See* 8 C.F.R. § 208.13(b)(3) ("In cases in which the applicant has not established past persecution, the applicant shall bear the burden that it would not be reasonable for him or her to relocate, unless the persecution is by a government or government-sponsored."); *Hussain v. Rosen*, 985 F.3d 634, 649 (9th Cir. 2021). We

thus deny the petition's challenges to the denial of asylum and withholding of removal.

2. To establish eligibility for CAT protection, "an applicant bears the burden of establishing that she will more likely than not be tortured with the consent or acquiescence of a public official if removed to her native country." *Xochihua-Jaimes v. Barr*, 962 F.3d 1175, 1183 (9th Cir. 2020). The BIA determined that Segovia and her minor son did not show that a public official would likely acquiesce to torturous harm by gang members. As stated above, the police are investigating the murder of Segovia's sister-in-law, and the cooperation of Segovia's nephews as informants for the police reflects meaningful efforts by law enforcement against gang violence. Thus, substantial evidence supports the BIA's denial of CAT protection.

3. Petitioners argue that they were denied a full and fair hearing because the IJ unreasonably limited the weight given to Segovia's testimony and denied her day-of request for a continuance. To state a due process claim, the petitioner must show prejudice, meaning "the outcome of the proceeding may have been affected by the alleged violation." *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000). Petitioners have not shown how the evidence they sought to obtain would affect the dispositive issues of the government being unable or unwilling to control gang members, the unreasonableness of relocation, or the government's acquiescence to

torture. And Petitioners make no compelling argument that the immigration judge's weighing of Segovia's testimony violated their rights.

PETITION DENIED.