

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 23 2023

FOR THE NINTH CIRCUIT

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

WALTER J. ACEITUNO,

Petitioner,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 21-268

Agency No.  
A073-396-663

MEMORANDUM\*

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

Submitted August 15, 2023\*\*

Before: TASHIMA, S.R. THOMAS, and FORREST, Circuit Judges.

Walter J. Aceituno, a native and citizen of Guatemala, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his applications for asylum, withholding of removal, and deferral of removal under the Convention Against

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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).

Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Conde Quevedo v. Barr*, 947 F.3d 1238, 1241 (9th Cir. 2020). We deny the petition for review.

Because Aceituno failed to contest the BIA’s determination that he waived challenge to the IJ’s denial of asylum and withholding of removal, we do not address it. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013).

Substantial evidence supports the agency’s denial of CAT deferral of removal because the record does not compel the conclusion that Aceituno’s past harm constituted torture, and Aceituno failed to show it is more likely than not he will be tortured by or with the consent or acquiescence of the government if returned to Guatemala. *See Aden v. Holder*, 589 F.3d 1040, 1047 (9th Cir. 2009); *see also Ahmed v. Keisler*, 504 F.3d 1183, 1200–01 (9th Cir. 2007) (detention and multiple beatings did not rise to the level of torture).

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

**PETITION FOR REVIEW DENIED.**