

NOT FOR PUBLICATION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

JOSE VLADIMIR MALTEZ-BRUNO,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 22-824

Agency No.
A209-241-718

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.

Jose Vladimir Maltez-Bruno, a native and citizen of El Salvador, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his applications for asylum, withholding of removal, and protection under the Convention Against

* 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 de novo the legal question of whether a particular social group is cognizable, except to the extent that deference is owed to the BIA’s interpretation of the governing statutes and regulations. *Conde Quevedo v. Barr*, 947 F.3d 1238, 1241-42 (9th Cir. 2020). We review for substantial evidence the agency’s factual findings. *Id.* at 1241. We grant in part, deny in part, and remand the petition for review.

In its analysis of whether Maltez-Bruno’s proposed particular social group of “family members of Salvadoran police officers” was cognizable, it is unclear whether the BIA considered all record evidence. *See id.* at 1242 (“Social distinction should be determined through a case-by-case, evidence-based inquiry as to whether the relevant society recognizes the proposed social group.” (citation and internal quotation marks and alteration omitted)); *Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1091 (9th Cir. 2013) (en banc) (with respect to particularity, “[t]he ultimate question is whether a group can accurately be described in a manner sufficient distinct that the group would be recognized, in the society in question, as a discrete class of persons.” (citation and internal quotation marks omitted)). Specifically, the BIA does not appear to have considered the 2017 United States Department of State Country Report on Human Rights Practices for El Salvador, multiple news articles, and several declarations, including that of Maltez-Bruno. Thus, we grant the petition for review as to Maltez-Bruno’s asylum and

withholding of removal claims, and remand to the agency for further proceedings consistent with this disposition. *See Conde Quevedo v. Barr*, 947 F.3d at 1242 (“The agency may not reject a proposed social group without considering the evidence in the record that a specific society recognizes the group.”).

Substantial evidence supports the agency’s denial of CAT protection because Maltez-Bruno 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 El Salvador. *See Garcia-Milian v. Holder*, 755 F.3d 1026, 1033 (9th Cir. 2014).

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

Each party must bear its own costs for this petition for review.

**PETITION FOR REVIEW GRANTED in part; DENIED in part;
REMANDED.**