

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 28 2023

FOR THE NINTH CIRCUIT

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

ROSALVA AZUCENA MORAN
MUNGUIA; MERLIN CRISTINA
ESCOBAR MUNGUIA,

Petitioners,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 22-759

Agency Nos.
A209-479-274
A209-479-275

MEMORANDUM*

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

Submitted August 23, 2023**
Pasadena, California

Before: BERZON, RAWLINSON, and BRESS, Circuit Judges.

Rosalva Azucena Moran Munguia (Moran Munguia), a native and citizen of
El Salvador, petitions for review of a Board of Immigration Appeals (BIA) decision

* 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).

dismissing her appeal of an Immigration Judge (IJ) order denying her application for asylum, withholding of removal, and protection under the Convention Against Torture (CAT).¹ We review the BIA’s decision for substantial evidence. *Sharma v. Garland*, 9 F.4th 1052, 1060, 1066 (9th Cir. 2021). “Under this standard, we must uphold the agency determination unless the evidence compels a contrary conclusion.” *Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1028 (9th Cir. 2019). We have jurisdiction under 8 U.S.C. § 1252, and we deny the petition.

1. Substantial evidence supports the denial of Moran Munguia’s applications for asylum and withholding of removal. A petitioner is eligible for asylum if she is unable or unwilling to return to her home country “because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1101(a)(42)(A). “The bar for withholding of removal is higher; an applicant must demonstrate that it is more likely than not that [s]he would be subject to persecution on one of these same five protected grounds.” *Guo v. Sessions*, 897 F.3d 1208, 1213 (9th Cir. 2018) (quoting *Ling Huang v. Holder*, 744 F.3d 1149, 1152 (9th Cir. 2014)).

Moran Munguia alleges past persecution and fear of future persecution based

¹ Moran Munguia’s minor daughter Merlin Cristina Escobar Munguia is a derivative beneficiary of Moran Munguia’s application for relief.

on her membership in a proposed social group consisting of “female family members of victims of gang violence who are assumed to have knowledge of the identities of the perpetrators.” Even assuming this proposed social group is legally cognizable, Moran Munguia failed to demonstrate the required “nexus” between her past and contemplated future harm and membership in her particular social group. *Garcia v. Wilkinson*, 988 F.3d 1136, 1143 (9th Cir. 2021) (“The applicant must demonstrate a nexus between her past or feared harm and a protected ground.”).

To establish nexus for an asylum claim, Moran Munguia must show that a protected ground “was or will be at least one central reason” for the persecution. 8 U.S.C. § 1158(b)(1)(B)(i). For withholding of removal, there is a nexus if the petitioner shows that a protected ground was “a reason” for the past or feared harm. *Barajas-Romero v. Lynch*, 846 F.3d 351, 360 (9th Cir. 2017).

In this case, the record does not compel the conclusion that gang members targeted Moran Munguia because of her family ties or because she knew the identity of the gang members who killed her partner. Rather, Moran Munguia repeated throughout her testimony that gang members threatened her for financial gain. And when the IJ asked Moran Munguia if the gang members ever threatened to kill her or her daughters because she knew which gang members killed her partner, she responded that the gang members “would call me to tell me that they wanted the money.” These threats from gang members who appeared to be “motivated by theft

or random violence . . . bear[] no nexus to a protected ground.” *Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010); *see also, e.g., Hussain v. Rosen*, 985 F.3d 634, 649 (9th Cir. 2021) (noting that “generalized crime and violence” in a country “cannot be a basis for granting asylum to any citizen of that country in the United States”).

2. Substantial evidence supports the denial of CAT relief. “To qualify for CAT relief, a petitioner must show that she more likely than not will be tortured if she is removed to her native country.” *Vitug v. Holder*, 723 F.3d 1056, 1066 (9th Cir. 2013). Torture is “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person . . . for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official.” *Sharma*, 9 F.4th at 1067 (quoting 8 C.F.R. § 208.18(a)(1)).

Moran Munguia has not alleged any past harm rising to the level of torture, even though she lived in El Salvador for more than a year following her partner’s death. Nor does the record compel the conclusion that Moran Munguia “will more likely than not be tortured with the consent or acquiescence of a public official if removed” to El Salvador. *See Xochihua-Jaimes v. Barr*, 962 F.3d 1175, 1183 (9th Cir. 2020). The BIA could thus conclude that Moran Mungia has not demonstrated a likelihood of future torture in El Salvador.

PETITION DENIED.