

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 30 2023

FOR THE NINTH CIRCUIT

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

YANEETH EDELMIRA GUARDADO-DE
RIVERA,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 22-1014

Agency No.
A202-175-633

MEMORANDUM*

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

Argued and Submitted August 23, 2023
Pasadena, California

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

Yaneeth Guardado-De Rivera (Guardado-De Rivera), a native and citizen of El Salvador, petitions for review of a Board of Immigration Appeals (BIA) decision dismissing her appeal of the denial of her application for asylum, withholding of removal, and protection under the Convention Against Torture

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

(CAT). We have jurisdiction under 8 U.S.C. § 1252 and we deny the petition for review.

Guardado-De Rivera waived her challenge to the BIA’s dispositive conclusion that she failed to establish the Salvadoran government would be unable or unwilling to protect her from persecution by failing to preserve this issue in her opening brief. *See Escobar Santos v. Garland*, 4 F.4th 762, 764 n.1 (9th Cir. 2021). Guardado-De Rivera’s failure in this regard disposes of both her asylum and withholding of removal claims. *See Plancarte Saucedo v. Garland*, 23 F.4th 824, 832 (9th Cir. 2022), *as amended* (requiring an asylum applicant to establish that “the persecution was committed by the government, or by forces that the government was unable or unwilling to control”) (citations omitted); *see also Meza-Vasquez v. Garland*, 993 F.3d 726, 729 (9th Cir. 2021) (“A government’s inability or refusal to protect against persecution is a core requirement for withholding of removal. . . .”) (citation omitted).

Because we dispose of this petition for review based on waiver, we do not reach the other issues Guardado-De Rivera raises.¹

PETITION DENIED.

¹Guardado-De Rivera has waived any challenge to the BIA’s denial of CAT relief. *See Escobar Santos*, 4 F.4th at 765 n.1.