

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 14 2023

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

JOSE NOE PARADA ARBAIZA,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 22-1367

Agency No.
A208-578-095

MEMORANDUM*

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

Submitted September 12, 2023**
Phoenix, Arizona

Before: GOULD, HURWITZ, and BUMATAY, Circuit Judges.

Jose Noe Parada Arbaiza, a native and citizen of El Salvador, petitions for review of a Board of Immigration Appeals (“BIA”) decision dismissing an appeal

* 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).

from an order of an immigration judge (“IJ”) denying his application for withholding of removal.¹ We exercise jurisdiction pursuant to 8 U.S.C. § 1252.

We review the denial of withholding of removal for substantial evidence. *Sanjaa v. Sessions*, 863 F.3d 1161, 1164 (9th Cir. 2017). Under this “highly deferential” standard, we will only reverse a decision when “the evidence *compels* the conclusion that” the BIA erred. *Sharma v. Garland*, 9 F.4th 1052, 1060 (9th Cir. 2021) (internal quotations and citation omitted). We deny the petition.

To be eligible for withholding of removal, an applicant must prove his “life or freedom would be threatened in th[e] country [of removal] because of [his] race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1231(b)(3)(A). An applicant must demonstrate “a ‘clear probability’ of persecution because of a protected ground” to obtain relief. *Garcia v. Wilkinson*, 988 F.3d 1136, 1146 (9th Cir. 2021) (quoting *INS v. Stevic*, 467 U.S. 407, 429–30 (1984)).

Substantial evidence supports the BIA’s conclusion that Parada Arbaiza failed to meet this burden for withholding. Although Parada Arbaiza presented evidence showing his sister—a property owner—has been extorted since 2002, only one other similarly situated family member suffered harm at the hands of a

¹ Parada Arbaiza also applied for relief under the Convention Against Torture (“CAT”). The BIA affirmed the denial of CAT relief, but Parada Arbaiza only challenges the denial of withholding of removal.

gang. In that incident, in 1996, gang members attacked Parada Arbaiza's brother-in-law on his way home from work and demanded "something" from him. The BIA found this incident "too remote" in time to be related to his sister's extortion. The BIA noted that Parada Arbaiza's sister's other immediate relatives have lived in El Salvador since 1996 without being harmed or threatened by the gangs. The lack of harm to other similarly situated family members supports the lack of clear probability of future persecution for Parada Arbaiza. *See, e.g., Sharma*, 9 F.4th at 1066. Nothing in the record compels the finding that Parada Arbaiza will be targeted by his sister's extortionists in the future.

The petition is **DENIED**.