NOT FOR PUBLICATION

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GUADALUPE BENITEZ VALENCIA; DANIELA JUAREZ BENITEZ; JA.J.B, Petitioners, v. MERRICK B. GARLAND, Attorney General, Respondent.	No. 22-1966 Agency Nos. A201-743-856 A201-743-857 A201-743-858 MEMORANDUM[*]

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

Submitted January 11, 2024[**]
Pasadena, California

Before: BOGGS[***], RAWLINSON, and H.A. THOMAS, Circuit Judges.

Guadalupe Benitez Valencia, Daniela Juarez Benitez, and J.A.J.B

[*] 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).

[***] The Honorable Danny J. Boggs, United States Circuit Judge for the Court of Appeals, 6th Circuit, sitting by designation.

(Petitioners) petition this court for review of an order from the Board of Immigration Appeals (BIA) denying their claims for asylum, withholding of removal, and protection under the Convention Against Torture (CAT). We have jurisdiction under 8 U.S.C. § 1252. We deny the petition.

"Where, as here, the BIA cites [*Matter of*] *Burbano*[, 20 I. & N. Dec. 872 (BIA 1994)] and also provides its own review of the evidence and law, we review both the IJ's [Immigration Judge's] and the BIA's decision." *Ruiz-Colmenares v. Garland*, 25 F.4th 742, 748 (9th Cir. 2022) (quoting *Ali v. Holder*, 637 F.3d 1025, 1028 (9th Cir. 2011)). We review the agency's factual findings for substantial evidence, meaning that the agency's findings are "conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary." *Salguero Sosa v. Garland*, 55 F.4th 1213, 1217–18 (9th Cir. 2022) (quoting *Nasrallah v. Barr*, 140 S. Ct. 1683, 1692 (2020)); 8 U.S.C. § 1252(b)(4)(B).

1. "To be eligible for asylum, a petitioner must demonstrate a 'well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.'" *Salguero Sosa*, 55 F.4th at 1218 (quoting *Sharma v. Garland*, 9 F.4th 1052, 1059 (9th Cir. 2021)). "A petitioner can satisfy this burden by showing past persecution, which gives rise to a rebuttable presumption of future persecution." *Id.*

The Petitioners argue that they suffered from past persecution due to

emotional harm they experienced when their family members disappeared or were kidnapped or killed. "'[A]lthough harm to a petitioner's close relatives, friends, or associates may contribute to a successful showing of past persecution,' it must be 'part of a pattern of persecution closely tied to [the petitioner] himself.'" *Sharma*, 9 F.4th at 1062 (quoting *Wakkary v. Holder*, 558 F.3d 1049, 1060 (9th Cir. 2009)) (some modifications in original). Here, the Petitioners point to no violence or threats of violence that they faced themselves. They make no other argument that they have a well-founded fear of future persecution except to point to past violence against their family members. Accordingly, the petition is denied with respect to the Petitioners' asylum claims.

2. To be eligible for withholding of removal, the Petitioners must demonstrate a "clear probability" that their "life or freedom would be threatened" upon return. *Singh v. Garland*, 57 F.4th 643, 658 (9th Cir. 2022) (first quoting *INS v. Cardoza-Fonseca*, 480 U.S. 421, 430 (1987), then quoting 8 U.S.C. § 1231(b)(3)(A)). This standard is "more stringent than asylum's well-founded-fear standard . . . ." *Id.* Because the record does not compel a finding that the Petitioners have a well-founded fear of future persecution, they accordingly have not satisfied the higher standard applicable to withholding of removal claims.

3. "To qualify for CAT protection, a petitioner must show it is 'more likely than not he or she would be tortured if removed to the proposed country of

removal.'" *Sharma*, 9 F.4th at 1067 (quoting 8 C.F.R. § 208.16(c)(2)). Because the Petitioners' treatment does not "rise to the level of persecution," however, "it necessarily falls short of the definition of torture." *Id.* And the "[g]eneralized evidence of violence" to which the Petitioners point does not establish that they in particular would more likely than not be tortured if returned to Mexico. *B.R. v. Garland*, 26 F.4th 827, 845 (9th Cir. 2022).

DENIED.