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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDGARDO CONDES ARCOLAS JR., Petitioner, v. MERRICK B. GARLAND, Attorney General, Respondent.	No. 23-304 Agency No. A200-253-984 MEMORANDUM*

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

Submitted March 6, 2024**
Pasadena, California

Before: CLIFTON, H.A. THOMAS, and DESAI, Circuit Judges.

Edgardo Condes Arcolas Jr. is a citizen of the Philippines. He petitions for review of a decision of the Board of Immigration Appeals (BIA) affirming a decision by an Immigration Judge (IJ) denying his applications for asylum,

* 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).

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 the BIA conducts its own review of the evidence and law, rather than adopting the IJ's decision, our review is limited to the BIA's decision, except to the extent the IJ's opinion is expressly adopted." *Flores Molina v. Garland*, 37 F.4th 626, 632 (9th Cir. 2022) (quoting *Rodriguez v. Holder*, 683 F.3d 1164, 1169 (9th Cir. 2012)). "We review purely legal questions de novo, and the agency's factual findings for substantial evidence." *Perez-Portillo v. Garland*, 56 F.4th 788, 792 (9th Cir. 2022) (citing *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010)). Under this "highly deferential" standard, the agency's factual 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. Arcolas argues that he suffered past persecution in the Philippines at the hands of the New People's Army (NPA) when members of the NPA extorted protection money from his father, beat his brother for refusing to pay protection money, threatened Arcolas after he confronted the NPA member who beat his brother, and then attempted to kidnap his niece after he had left for the United States. The single vague threat that Arcolas received—after a violent confrontation

that Arcolas initiated—was not accompanied by the kind of specificity or repeated, aggressive encounters that normally compel a finding of past persecution, and we do not find that such a conclusion is compelled here. *See Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1028 (9th Cir. 2019) (holding that while "death threats alone can constitute persecution," they do so "in only a small category of cases, and only when the threats are so menacing as to cause significant actual suffering or harm" (first quoting *Navas v. INS*, 217 F.3d 646, 658 (9th Cir. 2000), then quoting *Lim v. INS*, 224 F.3d 929, 936 (9th Cir. 2000))).

Similarly, the NPA's extortion of Arcolas's relatives does not compel a finding of past persecution. "'[A]lthough harm to a petitioner's close relatives . . . 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 v. Garland*, 9 F.4th 1052, 1062 (9th Cir. 2021) (quoting *Wakkary v. Holder*, 558 F.3d 1049, 1060 (9th Cir. 2009)). Arcolas, however, points to no harm he suffered himself, other than a single non-specific death threat. And the attempted kidnapping of Arcolas's niece does not show that Arcolas was persecuted, because he "was not in the country at the time." *Tamang v. Holder*, 598 F.3d 1083, 1092 (9th Cir. 2010).

2. Arcolas fears that the NPA will persecute him upon his return to the Philippines because he would be perceived as a wealthy foreign national. But nothing in Arcolas's testimony suggests that the NPA would target him for this

reason. Instead, Arcolas expressed fear that the NPA would target him either for protection money or because he is "on their list." These financial and retaliatory motives, however, do not give rise to a claim for asylum or withholding of removal. *See Rodriguez-Zuniga v. Garland*, 69 F.4th 1012, 1019–20 (9th Cir. 2023). The country conditions evidence to which Arcolas points fails to support his claim for similar reasons, as it also suggests that militant groups target foreign nationals due to financial motives.

3. Arcolas claims that terrorist groups such as ISIS might persecute him upon his return to the Philippines because he is Christian. Although Arcolas introduced evidence of incidents in which ISIS attacked churches, this general evidence of religiously motivated extremism does not show that Arcolas faces a particularized risk of harm. *See Wakkary*, 558 F.3d at 1055, 1060–62; *Sarkar v. Garland*, 39 F.4th 611, 623 (9th Cir. 2022).

4. Arcolas further claims that the government of the Philippines might persecute him because he spent time in the United States, and because the government might suspect he uses or deals drugs. We have previously rejected, however, a speculative argument that a person might face persecution in the Philippines because someone "could report his past drug use to the government." *Silva v. Garland*, 993 F.3d 705, 719 (9th Cir. 2021). And here, Arcolas does not contend that he has ever used drugs, and he introduces no evidence that the

government of the Philippines would target him for any other reason.

5. "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. § 205.16(c)(2)). For the reasons given above, however, the record does not compel the finding that Arcolas would be persecuted, much less tortured, by terrorist groups or by the government of the Philippines. And although Arcolas asserts that he might otherwise face torture because he spent time in the United States, he points to no evidence that he would face a particularized risk of torture for this or any other reason. *See Garcia v. Wilkinson*, 988 F.3d 1136, 1148 (9th Cir. 2021) ("a speculative fear of torture is insufficient to satisfy the 'more likely than not' standard"); *Silva*, 993 F.3d at 719 (evidence of generalized crime is not sufficient to support a CAT claim). Arcolas has therefore failed to show that he is entitled to CAT relief.

DENIED.