

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 25 2024

FOR THE NINTH CIRCUIT

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

KEDUIN ANTONIO GOMEZ-
MENJIVAR,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 24-2301

Agency No.
A209-297-202

MEMORANDUM*

On Petition for Review of an Order of the
Immigration Judge

Submitted September 17, 2024**

Before: WARDLAW, BADE, and H.A. THOMAS, Circuit Judges.

Keduin Antonio Gomez-Menjivar, a native and citizen of Honduras, petitions pro se for review of an immigration judge’s (“IJ”) order affirming an asylum officer’s negative reasonable fear determination. We have jurisdiction

* 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).

under 8 U.S.C. § 1252. We review for substantial evidence the agency's reasonable fear determination. *Orozco-Lopez v. Garland*, 11 F.4th 764, 774 (9th Cir. 2021). We deny the petition for review.

As to withholding of removal, substantial evidence supports the IJ's determination that Gomez-Menjivar failed to show a reasonable possibility that the harm he fears would be on account of a protected ground. *See Bartolome v. Sessions*, 904 F.3d 803, 814 (9th Cir. 2018) (record did not compel a conclusion that petitioner established a reasonable fear of persecution where he did not show a nexus to a protected ground). Gomez-Menjivar's contention regarding harm on account of a political opinion is not properly before the court because he failed to raise it before the IJ. *See* 8 U.S.C. § 1252(d)(1) (exhaustion of administrative remedies required); *see also Santos-Zacaria v. Garland*, 598 U.S. 411, 417-19 (2023) (section 1252(d)(1) is a non-jurisdictional claim-processing rule).

As to protection under the Convention Against Torture, substantial evidence supports the IJ's determination that Gomez-Menjivar failed to show a reasonable possibility of torture by or with the consent or acquiescence of the government if returned to Honduras. *See Andrade-Garcia v. Lynch*, 828 F.3d 829, 836-37 (9th Cir. 2016) (petitioner failed to demonstrate government acquiescence sufficient to establish a reasonable possibility of future torture).

The temporary stay of removal remains in place until the mandate issues.

The motion for a stay of removal is otherwise denied.

PETITION FOR REVIEW DENIED.