

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 16 2025

FOR THE NINTH CIRCUIT

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

MARVIN EDUARDO PEREZ-MAGANA,
et al.,

Petitioners,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 23-2036

Agency Nos.

A202-075-634

A206-884-655

A206-884-529

MEMORANDUM*

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

Submitted January 13, 2025**
Pasadena, California

Before: TASHIMA, RAWLINSON, and M. SMITH, Circuit Judges.

Marvin Eduardo Perez-Magana, his wife Zulma Esperanza Rodriguez-Crespo, and their minor son Marvin Eduardo Perez-Rodriguez (collectively, Petitioners) are natives and citizens of El Salvador. They petition for review of a

* 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).

Board of Immigration Appeals (BIA) decision dismissing their appeal of the Immigration Judge’s denial of their applications for asylum, withholding of removal, and relief under the Convention Against Torture (CAT).¹ All three applications were predicated on the elder Perez-Magana’s experiences in El Salvador. We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny the petition.

“Our review is limited to the BIA’s decision, except to the extent that the [Immigration Judge’s] opinion is expressly adopted. We review questions of law de novo. We review factual findings under the substantial evidence standard. Under this standard, a factual finding is not supported by substantial evidence when any reasonable adjudicator would be compelled to conclude to the contrary based on the evidence in the record.” *Singh v. Garland*, 97 F.4th 597, 602–03 (9th Cir. 2024) (citations, alterations, and internal quotation marks omitted).

Substantial evidence supports the denial of asylum on the basis that Petitioners failed to establish that they suffered either past persecution or a well-founded fear of future persecution. *See Sharma v. Garland*, 9 F.4th 1052, 1059 (9th Cir. 2021). Although Perez-Magana experienced repeated threats from gang members, this evidence does not compel a finding of past persecution because the

¹ Petitioners do not address the denial of their applications for withholding of removal and CAT relief in their opening brief and have waived those claims. *See Nguyen v. Barr*, 983 F.3d 1099, 1102 (9th Cir. 2020).

threats were vague, not accompanied by any physical violence or injury, and were ultimately unfulfilled. *See Villegas Sanchez v. Garland*, 990 F.3d 1173, 1179 (9th Cir. 2021).

Substantial evidence also supports the determination that Petitioners failed to establish a well-founded fear of future persecution. The record reflects that Petitioners have not received any threats since leaving El Salvador and that Petitioners' other family members have remained in El Salvador unharmed. *See Sharma*, 9 F.4th at 1059, 1062. Perez-Magana's testimony that he would face gang recruitment if returned to El Salvador did not demonstrate an individualized risk of persecution that is "appreciably different from the dangers faced by his fellow citizens." *Sarkar v. Garland*, 39 F.4th 611, 622 (9th Cir. 2022) (citation and alteration omitted).

Finally, substantial evidence supports the agency's conclusion that Petitioners did not establish a nexus between any past or future harm in El Salvador and a protected ground. Perez-Magana attributes the gang members' threats to his religion. However, the record supports the agency's determination that the gang members' threats were motivated by their desire to recruit Perez-Magana based on their prior friendship with him, and their view of him as a "traitor" for refusing to join the gang. Accordingly, the record does not compel the conclusion that Perez-Magana's religious beliefs were "one central reason" for the

gang members' threats against him. *Garcia v. Wilkinson*, 988 F.3d 1136, 1146 (9th Cir. 2021).

PETITION DENIED.²

² The stay of removal will remain in place until the mandate issues. The motion for stay of removal is otherwise denied.