

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 13 2025

FOR THE NINTH CIRCUIT

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

MARVIN FRANCISCO-PEDRO,

Petitioner,

v.

PAMELA BONDI, Attorney General,

Respondent.

No. 23-3778

Agency No.
A200-630-149

MEMORANDUM*

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

Submitted February 11, 2025**
Pasadena, California

Before: PAEZ, IKUTA, and R. NELSON, Circuit Judges.

An immigration judge (“IJ”) denied Marvin Francisco-Pedro’s claims for asylum and withholding of removal because, among other reasons, he failed to establish a nexus between a gang’s threats and his proposed particularized social groups. On appeal before the Board of Immigration Appeals (“BIA”), Francisco-

* 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).

Pedro argued only that the IJ's decision cited *Matter of A-B-*, 27 I. & N. Dec. 316 (A.G. 2018), which has since been vacated. *See Matter of A-B-*, 28 I. & N. Dec. 307 (A.G. 2021). The BIA dismissed his appeal because the IJ's nexus holding did not rely on the since-vacated case and because Francisco-Pedro did not otherwise challenge the IJ's nexus holding. Francisco-Pedro now petitions for review of that decision. We have jurisdiction under 8 U.S.C. § 1252(a)(1).

We deny the petition. The IJ's nexus holding did not rely on the since-vacated case. Francisco-Pedro failed to otherwise challenge the IJ's nexus holding before the BIA, so the BIA deemed the issue waived. Before this court, Francisco-Pedro does not challenge the agency's nexus holding or the BIA's waiver holding. Thus, he has failed to exhaust and forfeited any challenge to the agency's nexus determination. *See Abebe v. Mukasey*, 554 F.3d 1203, 1208 (9th Cir. 2009) (en banc) (per curiam) (holding that issues waived before the BIA are unexhausted); *Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996) (holding that issues not briefed on appeal are forfeited). That nexus holding is dispositive of Francisco-Pedro's asylum and withholding claims. *See Ayala v. Holder*, 640 F.3d 1095, 1097–98 (9th Cir. 2011).

PETITION DENIED.¹

¹ Francisco-Pedro's motion to stay removal, Dkt. 4, is denied. The temporary stay of removal is lifted.