

NOT FOR PUBLICATION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

ANGELINA AGUSTIN
LUCAS; YARITZA LILIANA JOSE
AGUSTIN,

Petitioners,

v.

PAMELA BONDI, Attorney General,

Respondent.

No. 24-2226

Agency Nos.
A220-917-338
A220-917-768

MEMORANDUM*

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

Submitted February 11, 2025**
Pasadena, California

Before: GRABER, HAMILTON***, and BUMATAY, Circuit Judges.

Petitioner Angelina Agustin Lucas and her minor daughter are natives and

* 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 David F. Hamilton, United States Circuit Judge for the Court of Appeals, 7th Circuit, sitting by designation.

citizens of Guatemala. They seek review of a decision of the Board of Immigration Appeals (“BIA”), which dismissed their appeal of an immigration judge’s (“IJ”) denial of their applications for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”) and the IJ’s resulting decision ordering their removal.¹ We have jurisdiction under 8 U.S.C. § 1252 and deny the petition.

1. The agency denied asylum and withholding of removal on the ground that Petitioner failed to show a nexus between any past or future harm and a protected ground. See Aleman-Belloso v. Garland, 121 F.4th 1165, 1173 (9th Cir. 2024) (explaining the nexus requirement). Petitioner challenges that ruling, asserting that she was harmed on account of her membership in the particular social group of “poor indigenous Guatemalan females.”

The agency largely premised its decision on Petitioner’s testimony. In Guatemala, Petitioner married and had a child with a man who, it turns out, already was married to someone else—a woman named Lucia. Lucia and her family beat and threatened Petitioner because of her relationship with the husband. Petitioner later came to the United States on account of her fear of

¹ The minor daughter is a derivative beneficiary of her mother’s asylum application and did not file separate applications for withholding of removal or CAT relief. See Ali v. Ashcroft, 394 F.3d 780, 782 n.1 (9th Cir. 2005) (stating that, unlike asylum, derivative relief is not available with respect to withholding of removal or CAT relief). We refer to the lead petitioner as “Petitioner.”

being killed or otherwise harmed by Lucia and her family.

The agency determined that the harm alleged by Petitioner “related solely to a personal dispute between [Petitioner] and . . . Lucia,” a factual finding that the record does not compel us to overturn. See Vasquez-Rodriguez v. Garland, 7 F.4th 888, 893 (9th Cir. 2021) (“Because ‘[a] persecutor’s actual motive is a matter of fact,’ we review that finding for substantial evidence.” (alteration in original) (quoting Matter of N-M-, 25 I&N Dec. 526, 532 (BIA 2011))). And “mistreatment motivated purely by personal retribution [does] not give rise to a valid asylum claim.” Madrigal v. Holder, 716 F.3d 499, 506 (9th Cir. 2013).

2. With respect to the CAT claim, the BIA deemed the issue waived because Petitioner did not challenge the IJ’s denial of CAT relief. Even though the failure to exhaust that claim is not jurisdictional, Santos-Zacaria v. Garland, 598 U.S. 411, 419 (2023), exhaustion is a claim-processing rule that we enforce when, as here, the government properly raises the issue of waiver, Umana-Escobar v. Garland, 69 F.4th 544, 550 (9th Cir. 2023). Accordingly, we do not reach the merits of Petitioner’s CAT claim.

3. Finally, the agency did not abuse its discretion in denying Petitioner’s most recent request for a continuance to pursue Special Immigrant Juvenile Status (“SIJS”) for her minor daughter. See Olea-Serefina v. Garland, 34 F.4th 856, 866 (9th Cir. 2022) (stating standard of review). Petitioner received four continuances

between February and July of 2022, plus a fifth continuance requested by counsel on July 29, 2022. The IJ denied a sixth continuance, requested by counsel on November 29, 2022, concluding that Petitioner failed to establish good cause and reasoning that Petitioner already had ample opportunity to file an application for SIJS but had not done so. Plus, as the BIA noted in its decision, the daughter's eligibility for relief was speculative. See Singh v. Holder, 638 F.3d 1264, 1274 (9th Cir. 2011) (“[T]he IJ was not required to grant a continuance based on . . . speculations.”).

PETITION DENIED.