

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 19 2025

FOR THE NINTH CIRCUIT

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

DELMY NARAI DE LEON-MENDEZ,

Petitioner,

v.

PAMELA BONDI, Attorney General,

Respondent.

No. 24-1778

Agency No.  
A206-203-659

MEMORANDUM\*

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

Submitted February 14, 2025\*\*  
San Francisco, California

Before: N.R. SMITH and JOHNSTONE, Circuit Judges, and CHRISTENSEN,  
District Judge.\*\*\*

Delmy Narai De Leon-Mendez (De Leon), native and citizen of Guatemala,  
petitions for review of an order of the Board of Immigration Appeals (BIA)

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\* 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 Dana L. Christensen, United States District Judge for  
the District of Montana, sitting by designation.

dismissing her appeal from an immigration judge’s (IJ) decision denying her applications for asylum and withholding of removal.<sup>1</sup> We have jurisdiction under 8 U.S.C. § 1252, and we deny the petition for review.

The BIA affirmed the IJ’s denial of asylum and withholding of removal on the basis that De Leon did not challenge the IJ’s finding that she “had not shown that the government of Guatemala was or would be unable or unwilling to protect her.” Additionally, the BIA noted that De Leon went to the police, the police took her report and set up a court date. Although De Leon’s ex-husband did not appear in court, the record indicated that the government was willing to protect her.

In De Leon’s opening brief, she does not meaningfully challenge the BIA’s conclusion that she forfeited her claim.<sup>2</sup> *See Rizo v. Lynch*, 810 F.3d 688, 692 (9th Cir. 2016) (explaining that to meaningfully challenge the IJ’s finding, petitioner must “apprise the BIA of the particular basis for [the] claim that the IJ erred”); *see also Santos-Zacaria*, 598 U.S. at 421–24. In De Leon’s reply brief, she argues

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<sup>1</sup> In her opening brief, De Leon did not challenge the BIA’s conclusion that she had waived review of the IJ’s denial of her application for CAT protection. Thus, this issue is forfeited. *See Santos-Zacaria v. Garland*, 598 U.S. 411, 421–24 (2023).

<sup>2</sup> In her opening brief, De Leon challenges the IJ’s alternative findings, which the BIA did not address. All these arguments, even if correct, are not relevant if De Leon cannot establish that “the persecution was committed by the government, or by forces that the government was unable or unwilling to control.” *Bringas-Rodriguez v. Sessions*, 850 F.3d 1051, 1062 (9th Cir. 2017) (citation omitted). Thus, we need not address them.

(without citation to the record) that the BIA recognized that De Leon raised this issue and addressed it. This argument, however, ignores the BIA's clear language that De Leon forfeited the claim.

Even if De Leon did not forfeit her claim, substantial evidence supports the BIA's decision. The record demonstrates that the police took De Leon's report of abuse and acted upon it. Even though De Leon's ex-husband did not appear in court, that evidence does not show that the government was unwilling to act. *See Nahrvani v. Gonzales*, 399 F.3d 1148, 1154 (9th Cir. 2005) (holding that evidence did not compel a conclusion that the government was unable or unwilling to protect where police took complaints and investigated reports of mistreatment but were unable to solve the crime).<sup>3</sup>

**PETITION DENIED.**

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<sup>3</sup> De Leon also argues that the agency erred in applying the vacated decision of *Matter of A-B-*, 28 I. & N. Dec. 199 (A.G. 2021), in determining that the Guatemalan government was able or willing to protect her. This argument lacks merit. First, De Leon did not raise this issue to the BIA. Second, the BIA relied on *Bringas-Rodriguez* not *Matter of A-B-*. Third, the IJ's reliance on *Matter of A-B-* was related to the IJ's conclusion that De Leon suffered from harassment by private criminal actors.