

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 28 2025

FOR THE NINTH CIRCUIT

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

GHULAM AKBAR,

Petitioner,

v.

PAMELA BONDI, Attorney General,

Respondent.

No. 24-1545

Agency No.
A215-669-633

MEMORANDUM*

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

Submitted March 4, 2025**
San Francisco, California

Before: WARDLAW, PAEZ, and LEE, Circuit Judges.
Partial Dissent by Judge LEE.

Ghulam Akbar (“Akbar”), a native and citizen of Pakistan, petitions for review of a decision by the Board of Immigration Appeals (“BIA”) dismissing an appeal from an order of an Immigration Judge (“IJ”) denying Akbar’s applications

* 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).

for asylum, withholding of removal, protection under the Convention Against Torture (“CAT”), and denying his Motion to Reopen. We have jurisdiction under 8 U.S.C. § 1252. “Where, as here, the BIA agrees with the IJ decision and also adds its own reasoning, we review the decision of the BIA and those parts of the IJ’s decision upon which it relies.” *Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1027-28 (9th Cir. 2019) (citation omitted). We review denials of asylum, withholding, and CAT relief for substantial evidence. *Garcia-Milian v. Holder*, 755 F.3d 1026, 1031 (9th Cir. 2014). We review de novo claims of due process violations in deportation proceedings, including those based on inadequate language interpretation. *Hartooni v. I.N.S.*, 21 F.3d 336, 339 (9th Cir. 1994) (citation omitted). We grant in part and deny in part Akbar’s petition for review.

1. Substantial evidence does not support the BIA’s determination that Akbar did not experience past persecution.¹ Instead, Akbar credibly testified, that he started receiving threats from local Jamiat Ulema-e-Islam (“JUI”) party members in his village in Pakistan after he began working as a taxi driver and primarily drove girls to school and other activities, including cinemas, tours, and

¹ “We have held that ‘[w]hether particular acts constitute persecution for asylum purposes is a legal question reviewed de novo.’” *Shamsher Singh v. Garland*, 57 F.4th 643, 651 (9th Cir. 2023) (citation omitted). But, we have also reviewed the agency’s past persecution determination for substantial evidence. *Id.* at 652. We decline to decide the standard of review here because we would reverse the BIA’s past persecution determination under either standard.

fashion shows. The JUI members² repeatedly told Akbar's father that they would kill Akbar if he did not stop this purportedly anti-Islamic behavior by giving the girls "too much freedom." Akbar and his father paid off the JUI members, and Akbar fled and left his taxi job to work on a farm. Shortly after Akbar removed the farm's JUI flag and replaced it with that of the rival political party he supported, JUI-affiliated students threatened him, and his farm was set on fire. After the police refused to file a report, Akbar was threatened yet again, this time by the son of a JUI imam from his village. Akbar fled Pakistan, returning only to live in hiding while he processed his visa. The country conditions evidence in the record further supports Akbar's reasonable fear that the JUI would employ "informal justice systems" to carry out its "vigilante, anti-state activities" against those it accused of being anti-JUI or anti-Islam.

Akbar's past experiences of "repeated, specific [threats] . . . 'combined with confrontation or other mistreatment'" compel the conclusion that he experienced past persecution. *Duran-Rodriguez*, 918 F.3d at 1028 (quoting *Lim v. I.N.S.*, 224 F.3d 929, 936 (9th Cir. 2000)). "[D]eath threats may constitute persecution especially 'when they are specific and menacing and are accompanied by evidence of violent confrontations, near-confrontations and vandalism.'" *Id.* (quoting

² The JUI is a clerical political party whose leadership primarily consists of imams. Akbar was a supporter of a rival political party, Pakistan Tehreek-e-Insaf.

Mashiri v. Ashcroft, 383 F.3d 1112, 1119 (9th Cir. 2004)). Here, the repeated death threats, when combined with the setting of his farm on fire, compel the conclusion that Akbar’s past experiences rose to the level of past persecution. We therefore remand Akbar’s asylum and withholding of removal claims to the agency to apply the rebuttable presumption of future persecution and to reevaluate these claims. 8 C.F.R. §§ 1208.13(b)(1), 1208.16(b)(1)(i); *see also Singh v. Garland*, 57 F.4th 643, 657–58 (9th Cir. 2023) (granting petition for review and remanding case to the agency for it to apply the presumption of future persecution).

2. Substantial evidence supports the BIA’s determination that Akbar failed to establish eligibility for protection under CAT. A noncitizen seeking CAT protection must show that it is more likely than not that he will be subjected to torture by or with the acquiescence of a public official in his native country. 8 C.F.R. §§ 1208.17(a), 1208.18(a)(1). Petitioner did not provide any evidence that he had been or would be targeted for torture by or with the acquiescence of government officials, and generalized assertions about country conditions are insufficient to compel the conclusion that Petitioner would face torture in Pakistan. *See Tzompantzi-Salazar v. Garland*, 32 F.4th 696, 706–707 (9th Cir. 2022) (finding that country conditions evidence acknowledging “crime and police corruption in Mexico generally” did not demonstrate that the petitioner faced a “particularized, ongoing risk of future torture”).

3. Reviewing de novo, we conclude that the BIA correctly determined that Akbar was not denied due process at his merits hearing on the basis of deficient interpretation. To prevail on his due process challenge, Akbar must demonstrate both incompetent translation and prejudice. *Hartooni*, 21 F.3d at 340. Prejudice requires a showing that the noncitizen’s rights were “violated in a manner so as potentially to affect the outcome of the proceedings.” *Id.* (internal quotations omitted).

Although Akbar argues that his merits hearing interpreter was incompetent because he spoke a dialogue different from his, he has not established the requisite prejudice. Akbar does not now specify any portions of his testimony that would have been translated differently, nor does he explain how any interpretation errors might have affected the outcome of the proceedings. *See Kotasz v. I.N.S.*, 31 F.3d 847, 850 n.2 (9th Cir. 1994) (finding no prejudice where, even given substantial mistranslations in the record, petitioners were “given a fair opportunity to relate their version of events”).

**PETITION GRANTED IN PART, DENIED IN PART, AND
REMANDED.³**

³ Akbar’s Motion to Stay Removal (Dkt. No. 3) is denied as moot and will lift upon issuance of the mandate.

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LEE, Circuit Judge, dissenting in part:

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I agree with the majority that the BIA correctly rejected Akbar's claim for CAT relief and his due process claim. I, however, would also deny Akbar's petition for asylum and withholding of removal claims because substantial evidence supports the agency's finding of no past persecution.

None of the individuals who threatened Akbar caused him physical harm or put him in danger. Akbar was never "even closely confronted." *Lim v. I.N.S.*, 224 F.3d 929, 936 (9th Cir. 2000). And while Akbar believes his harassers burned his crops, he provided no evidence to support even a theory that it was arson.

Akbar's claim of past persecution sits primarily on the threats that he received. But the threats were too vague to constitute past persecution. Akbar provided evidence of only two threats against him, and neither explicitly threatened him with death. *See Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1028 (9th Cir. 2019) (finding no past persecution where petitioner received only two threats); *Villegas Sanchez v. Garland*, 990 F.3d 1173, 1179 (9th Cir. 2021) (finding no past persecution from vague, unfulfilled threats).

I thus respectfully dissent in part.