

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 31 2025

FOR THE NINTH CIRCUIT

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

CANDELARIA ANGELICA
GONZALEZ; ESTRELLA
ROSAMARINA PUAC
GONZALEZ; LUNA J PUAC
GONZALEZ,

Petitioners,

v.

PAMELA BONDI, Attorney General,

Respondent.

No. 24-988

Agency Nos. A216-400-846
A216-400-847
A216-400-848

MEMORANDUM*

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

Submitted March 25, 2025**
Pasadena, California

Before: NGUYEN and MENDOZA, Circuit Judges, and KERNODLE, District
Judge.***

* 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 Jeremy D. Kernodle, United States District Judge for
the Eastern District of Texas, sitting by designation.

Petitioners are members of a family from Guatemala. Candelaria Angelica Gonzalez is the lead petitioner, and Estrella and Luna are her minor children. They petition for review of a decision by the Board of Immigration Appeals (“BIA”) affirming an Immigration Judge’s (“IJ”) denial of asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 8 U.S.C. § 1252 and deny the petition.

“Where the BIA conducts its own review of the evidence and law, rather than adopting the IJ’s decision, our review is limited to the BIA’s decision, except to the extent the IJ’s opinion is expressly adopted.” *Rodriguez v. Holder*, 683 F.3d 1164, 1169 (9th Cir. 2012) (internal quotation marks omitted). Whether a particular social group is cognizable is a question of law that we review de novo. *Diaz-Reynoso v. Barr*, 968 F.3d 1070, 1076 (9th Cir. 2020) (citing *Conde Quevedo v. Barr*, 947 F.3d 1238, 1242 (9th Cir. 2020)). The BIA’s factual findings are reviewed for “substantial evidence,” and “should be upheld ‘unless the evidence compels a contrary result.’” *Budiono v. Lynch*, 837 F.3d 1042, 1046 (9th Cir. 2016) (quoting *Hernandez-Mancilla v. Holder*, 633 F.3d 1182, 1184 (9th Cir. 2011)).

1. Substantial evidence supports the agency’s denial of asylum and withholding of removal because Petitioners failed to establish that (1) they experienced harm rising “to the level of persecution; (2) the persecution was on

account of one or more protected grounds; and (3) the persecution was committed by the government, or by forces that the government was unable or unwilling to control.” *Baghdasaryan v. Holder*, 592 F.3d 1018, 1023 (9th Cir. 2010). First, Ms. Gonzalez faced one unfulfilled threat of extortion, which is insufficient to establish harm rising to the level of persecution. *See Lim v INS*, 224 F.3d 929, 936 (9th Cir. 2000) (noting that threats constitute “persecution in only a small category of cases, and only when the threats are so menacing as to cause significant actual suffering or harm” (cleaned up)). Second, Ms. Gonzalez presented no evidence that “previous business owners in Guatemala” is a protected group. Her status as a business owner is not an immutable characteristic, particularly given that she operated her grocery store only for a little over a year. *See Macedo Templos v. Wilkinson*, 987 F.3d 877, 882–83 (9th Cir. 2021) (concluding that “wealthy business owners” is not a distinct group because the “group lacks particularity” and “is not an immutable characteristic because it is not fundamental to an individual’s identity”). And Ms. Gonzalez fails to demonstrate that Guatemala considers “previous business owners in Guatemala” socially distinct.

Even if “previous business owners in Guatemala” was cognizable, substantial evidence supports the BIA’s determination that there was no nexus, as the extortion threats were aimed at obtaining money and not an attempt to target Ms. Gonzalez based on her status as a business owner. Likewise, substantial

evidence supports the BIA's finding that no nexus existed between Ms. Gonzalez's harm and her second proposed social group, "the Gonzalez family," which may be cognizable. *See Rios v. Lynch*, 807 F.3d 1123, 1128 (9th Cir. 2015). Other than a conclusory statement that Ms. Gonzalez was "persecuted in Guatemala on account of [herself] previously being a business owner in Guatemala and based on her family," Ms. Gonzalez presents no evidence demonstrating that her membership in the "Gonzalez family" was a "central reason" for the extortion threat. *Garcia v. Wilkinson*, 988 F.3d 1136, 1143 (9th Cir. 2021) ("[T]he protected characteristic must be 'a central reason' for the past or feared harm.").

Third, substantial evidence supports the BIA's conclusion that Ms. Gonzalez did not establish that the purported "persecution was committed by the government, or by forces that the government was unable or unwilling to control," *Davila v. Barr*, 968 F.3d 1136, 1141 (9th Cir. 2020) (internal quotation marks omitted), because Ms. Gonzalez never reported the threats to the police. Nor does Ms. Gonzalez fill in the evidentiary gap by pointing to other relevant considerations. *See Bringas-Rodriguez v. Sessions*, 850 F.3d 1051, 1066 (9th Cir. 2017). Thus, Ms. Gonzalez fails to show past persecution or a well-founded fear of future persecution.

2. As a result of Petitioners' failure to meet their burden for asylum, they "necessarily fail[] to satisfy the more stringent standard for withholding of removal." *Mansour v. Ashcroft*, 390 F.3d 667, 673 (9th Cir. 2004).

3. Lastly, substantial evidence supports the BIA's denial of CAT relief because Ms. Gonzalez failed to show it is more likely than not that she would be tortured by or with the Guatemalan government's consent or acquiescence if she returned. *See Garcia*, 988 F.3d at 1147 (requiring government acquiescence for CAT relief). Indeed, Ms. Gonzalez relies on generalized country conditions, noting the high levels of violence in Guatemala and the prevalence of human rights violations, which does not compel CAT relief. *See Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010) (per curiam) ("Petitioners' generalized evidence of violence and crime in Mexico is not particular to Petitioners and is insufficient to meet this [CAT] standard.").

PETITION DENIED.