NOT FOR PUBLICATION

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID MOISES BLANDON GONZALEZ, Petitioner, v. PAMELA BONDI, Attorney General, Respondent.	No. 24-4368 Agency No. A240-524-665 MEMORANDUM*

On Petition for Review of an Order of the
Department of Homeland Security

Argued and Submitted March 28, 2025
Phoenix, Arizona

Before: BERZON and BENNETT, Circuit Judges, and LEFKOW, District Judge.**

David Moises Blandon Gonzalez, a noncitizen subject to a reinstated removal order, petitions for review of an Immigration Judge's (IJ) decision affirming an asylum officer's determination that he was not eligible to apply for withholding or

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The Honorable Joan H. Lefkow, United States District Judge for the Northern District of Illinois, sitting by designation.

deferral of removal under the Convention Against Torture (CAT). We deny the petition.

1. Blandon Gonzalez did not waive his challenge to the IJ's credibility determination. His brief does challenge the bases for the adverse credibility decision, setting out several reasons why he did not testify with greater consistency or detail.

2. Substantial evidence supports the IJ's determination that Blandon Gonzalez did not provide credible testimony demonstrating a reasonable fear of persecution or torture. The asylum officer and the IJ focused on the inconsistency and lack of detail in Blandon Gonzalez's testimony. Both rationales for the IJ's credibility determination are supported by substantial evidence.

First, Blandon Gonzalez provided shifting accounts about where he went after attending the protest, both to the asylum officer and to the IJ. The gist of his testimony was that he moved between various houses for several days after the protest before settling at his uncle's farm for around two years. But he gave inconsistent details about where he went following the protest and in what order. He also told the asylum officer that after his time at his uncle's farm, he "had to leave the country," but he told the IJ that after his stay at the farm, he went back to his mother's home for a year to care for her because she was sick. The inconsistent details in Blandon Gonzalez's account provide substantial evidence to support the IJ's conclusion that his testimony was not credible.

Second, Blandon Gonzalez provided minimal detail about what he did during the time he was hiding at his uncle's farm, even after being asked to elaborate. According to the asylum officer's notes, when questioned about his routine on the farm, Blandon Gonzalez stated only that he "was hiding" and that he was given food. He did not provide additional details when pressed by the asylum officer. When the immigration judge similarly asked for more details, Blandon Gonzalez again stated only that he was "hiding." The IJ's determination that the lack of detail in Blandon Gonzalez's answers about what he did while at the farm undermined his credibility is supported by substantial evidence.

Blandon Gonzalez's claim that he feared persecution or torture was, at the screening stage, supported only by his own testimony. The IJ's determination that Blandon Gonzalez failed to establish a reasonable fear of persecution or torture if removed because his testimony was not credible was therefore supported by substantial evidence.

3. Blandon Gonzalez's additional challenges to the IJ's decision and the underlying reasonable fear screening process also fail.

a. Blandon Gonzales's argument that the IJ "sought a brief amount of additional testimony, but not enough to establish a full de novo review," misapprehends the nature of IJ de novo review in these proceedings. "[T]he immigration judge conducts a de novo review of the record prepared by the asylum

officer and may (but need not) accept additional evidence and testimony from the non-citizen." *Alvarado-Herrera v. Garland*, 993 F.3d 1187, 1191 (9th Cir. 2021). Here, the IJ did exercise his discretion and did accept additional testimony from Blandon Gonzalez. Further, although the IJ agreed with the asylum officer's determination, the IJ reviewed the record of the asylum officer proceedings and provided his own explanation and reasoning.

The IJ properly reviewed the asylum officer's determination de novo.

b. Blandon Gonzalez's failure-to-probe challenge also fails. In removal proceedings, "immigration judges are obligated to fully develop the record in those circumstances where applicants appear without counsel." *Jacinto v. I.N.S.*, 208 F.3d 725, 734 (9th Cir. 2000). Blandon Gonzalez points to no authority holding that this duty extends to reasonable fear appellate proceedings before an IJ. In any event, both the asylum officer and the IJ asked Blandon Gonzalez multiple follow up questions about his itinerary following the protest and his routine at the farm. They found Blandon Gonzalez not credible because he did not give consistent or sufficiently detailed answers about what he did after the protest even after this repeated questioning. These shortcomings are not the kind that might have been rectified through additional questioning or further development of the record.

c. Blandon Gonzalez also asserts that he should be provided a full hearing on his CAT claim before an IJ "with the opportunity to present evidence and be

assisted by Counsel," "so that decision may be made on the merits of his claim, not merely based on the Reasonable Fear Interview." This challenge fails.

Applicants in reasonable fear screening interviews "may be represented by counsel or an accredited representative at the interview" and to "present evidence, if available, relevant to the possibility of persecution or torture." 8 C.F.R. § 208.31(c).[1] The screening process seeks to determine if an applicant can make a threshold showing of a "reasonable possibility" he or she will be persecuted or tortured, 8 C.F.R. § 208.31(c), before potentially advancing to full consideration of the claim, which requires a greater showing—that torture or persecution is "more likely than not," 8 C.F.R. § 208.16(c)(2). If an applicant cannot establish even the possibility of torture or persecution, full consideration of a withholding claim would be futile.

PETITION DENIED.[2]

[1] Blandon Gonzalez had an attorney during the asylum officer proceedings. In each of his asylum officer interviews, however, he provided testimony without his attorney present and indicated that he was comfortable doing so. Prior to the IJ hearing, Blandon Gonzalez's counsel withdrew at Blandon Gonzalez's request.

[2] The temporary stay of removal shall remain in place until the mandate issues. Blandon Gonzalez's motions for a stay of removal are otherwise denied.