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APR 9 2025

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FLORINDA ARZATE HERNANDEZ; FATIMA VALERIA JIMENEZ ARZATE; EMMANUEL JIMENEZ ARZATE, Petitioners, v. PAMELA BONDI, Attorney General, Respondent.	No. 24-3383 Agency Nos. A240-743-660 A240-743-661 A240-743-662 MEMORANDUM[*]

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

Submitted April 4, 2025[**]
Pasadena, California

Before: GILMAN[***], M. SMITH, and VANDYKE, Circuit Judges.

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

[**] The panel unanimously concludes that this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

[***] The Honorable Ronald Lee Gilman, United States Circuit Judge for the Court of Appeals, 6th Circuit, sitting by designation.

Florinda Arzate Hernandez and her minor children (Petitioners) petition for review of a decision by the Board of Immigration Appeals (BIA) dismissing an appeal of an immigration judge's (IJ) denial of Petitioners' application for asylum, withholding of removal, and relief under the Convention Against Torture (CAT). We have jurisdiction under 8 U.S.C. § 1252(a)(1), and we deny the petition for review.

1. Substantial evidence supports the BIA's finding that Petitioners failed to demonstrate a nexus between the harm that they suffered and a protected ground, which is the appropriate standard of review for factual determinations. *Rodriguez Tornes v. Garland*, 993 F.3d 743, 750 (9th Cir. 2021). The BIA reasonably concluded that the gangs in Mexico that kidnapped and threatened Petitioners were motivated solely by financial gain. Its determination was based on Arzate Hernandez's testimony that the gangs targeted her family because of her father's wealth, and that the attackers released the family after ransom payments were made.

Petitioners counter that "[t]he central reason [they were] persecuted was because [Arzate Hernandez] was her father's daughter"—that is, that they were persecuted based on the protected ground of their family ties. But we are bound in this case by our precedent in *Rodriguez-Zuniga v. Garland*, 69 F.4th 1012, 1019 (9th Cir. 2023), which held: "Where the record indicates that the persecutor's actual motivation for threatening a person is to extort money from a third person, the record

does not compel finding that the persecutor threatened the target because of a protected characteristic such as family relation."

Petitioners also argue that the BIA erred because a nexus exists between the harm that they suffered and their alternative proposed social group—"landowners who are continuously extorted for money and obligated to pay a tax for owning their own land to criminal groups." But even if we were to assume, without deciding, that the BIA erred by failing to recognize this proposed social group, this argument fails for the same reason discussed above: Substantial evidence supports the BIA's conclusion that the kidnappers were motivated solely by financial gain. *See id.* at 1025–26.

And to the extent that Petitioners argue that the BIA erred by failing to engage in a mixed-motive analysis, we do not consider this argument because Petitioners failed to raise it before the BIA. *See Santos-Zacaria v. Garland*, 598 U.S. 411, 419, 423 (2023) (recognizing that 8 U.S.C. § 1252(d)(1)'s exhaustion requirement is a mandatory, although non-jurisdictional, claim-processing rule that is subject to waiver and forfeiture). In any event, Petitioners' claim fails to satisfy the mixed-motive standard because Petitioners do not propose any nonfinancial motive for their kidnapping other than family ties. And their family-ties theory is foreclosed by *Rodriguez-Zuniga*. *See* 69 F.4th at 1016–19 (holding that a petitioner does not establish a nexus to a protected ground when the persecutor's motivation is solely

financial, and that "[f]or both asylum and withholding claims, a petitioner must prove a causal nexus between one of her statutorily protected characteristics and either her past harm or her objectively tenable fear of future harm").

2. As to Petitioners' CAT claims, the BIA did not err when it concluded that those claims were waived because Petitioners failed to meaningfully challenge the IJ's denial of such relief. Although Petitioners' brief before the BIA mentioned CAT in a heading, the brief did not identify any errors in the IJ's CAT analysis nor present any argument regarding the issue. The BIA's application of the appellate-waiver rule was reasonable, and we therefore do not consider those claims. *See Matter of O-R-E-*, 28 I. & N. Dec. 330, 336 n.5 (BIA 2021) (holding that a petitioner waives an issue on appeal where there is a failure to "develop an argument"); *see also Santos-Zacaria*, 598 U.S. at 423 (discussing waiver of an unexhausted issue).

PETITION DENIED.