NOT FOR PUBLICATION

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RODRIGO GOMES DA COSTA; CAROLINA ROBERTA LEMES MACHADO DA COSTA; M.L.C., Petitioners, v. PAMELA BONDI, Attorney General, Respondent.	No. 24-4297 Agency Nos. A220-328-658 A218-147-323 A218-147-324 MEMORANDUM[*]

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

Submitted May 13, 2025[**]
San Francisco, California

Before: S.R. THOMAS, M. SMITH, and BRESS, Circuit Judges.

Rodrigo Gomes da Costa, his wife Carolina Roberto Lemes Machado Costa, and their minor son, M.L.C. (collectively, Petitioners), petition for review of a decision by the Board of Immigration Appeals (BIA) dismissing their appeal of an

[*] 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).

Immigration Judge's (IJ) denial of asylum and withholding of removal.[1] This court has jurisdiction under 8 U.S.C. § 1252(a), and we deny the petition for review.

1. Where the BIA adopts and affirms the decision of an IJ pursuant to *Matter of Burbano*, 20 I. & N. Dec. 872, 874 (BIA 1994), and adds reasoning of its own, we "review both the IJ's and the BIA's decision." *Ruiz-Colmenares v. Garland*, 25 F.4th 742, 748 (9th Cir. 2022). We review questions of law de novo and the agency's factual findings for substantial evidence. *Id.* Under the substantial evidence standard, "[a] factual finding is 'not supported by substantial evidence when any reasonable adjudicator would be compelled to conclude to the contrary based on the evidence in the record.'" *Aden v. Wilkinson*, 989 F.3d 1073, 1079 (9th Cir. 2021) (quoting *Bringas-Rodriguez v. Sessions*, 850 F.3d 1051, 1059 (9th Cir. 2017) (en banc)).

Substantial evidence supports the IJ's and BIA's determination that Petitioners were unable to establish that the Brazilian government inflicted any persecution or was unable or unwilling to protect them from persecution.[2] "To

[1] Rodrigo Gomes da Costa is the lead Petitioner. His wife and child are included on his asylum application as derivative beneficiaries and cannot assert a derivative claim for withholding of removal. Both before the BIA and before this court, Petitioners do not challenge the IJ's denial of their claim for protection under the Convention Against Torture.

[2] Because this issue is dispositive of Petitioners' past persecution claim, we do not reach the issue of whether the harm Petitioners suffered rose to the level of persecution. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004)

determine whether private persecutors are individuals whom the government is unable or unwilling to control, we must examine 'all relevant evidence in the record, including [country] reports.'" *Bringas-Rodriguez*, 850 F.3d at 1069 (quoting *Afriyie v. Holder*, 613 F.3d 924, 933 (9th Cir. 2010)). The IJ and BIA acknowledged the evidence in the record that some practitioners of Candomblé and other Afro-Brazilian religions have faced discrimination and violence, as well as the lead Petitioner's testimony that the police opened a report after one of his beatings by his ex-girlfriend's father but did nothing further, but also considered the other evidence in the record indicating that the Brazilian government has made efforts to protect religious minorities and to arrest those engaging in acts of religious intolerance. Given this mixed evidence, the record does not compel the conclusion that the lead Petitioner was persecuted by the government or by forces that the government is unable or unwilling to control. *See Go v. Holder*, 640 F.3d 1047, 1054 (9th Cir. 2011) ("[T]he possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence." (quoting *Singh-Kaur v. INS*, 183 F.3d 1147, 1150 (9th Cir. 1999))).

2. Petitioners also challenge the IJ's and BIA's conclusions that they did not

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(explaining that courts are not required to decide issues unnecessary to the results they reach).

establish a well-founded fear of future persecution and that they could safely and reasonably relocate within Brazil. The IJ determined that, because the government was not unable or unwilling to protect the lead Petitioner, he also did not have an objectively reasonable fear of future persecution. The IJ also found that because Candomblé is both popular and celebrated in the northeast of Brazil, the family could safely relocate there, and that because the lead Petitioner and his wife have transferable skills, it would be reasonable to relocate there. Substantial evidence supports these conclusions. *See Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1029 (9th Cir. 2019). Although the record contains some evidence of violence against Candomblé practitioners in the northeast of Brazil, it also contains evidence that Candomblé is "quite popular and fully celebrated" there and that demonstrations against religious intolerance have government support. Therefore, the record does not compel the conclusion that Petitioners could not safely relocate there. Moreover, as the IJ found, the lead Petitioner and his wife have transferable skills, and Petitioners do not challenge the IJ's conclusions as to the reasonableness of relocation on appeal.

PETITION DENIED.[3]

[3] Petitioners' motion to stay removal, Dkt. 9, is denied. The temporary stay of removal shall remain in place until the mandate issues. The Government's motion to supplement the record, Dkt. 20, is granted.