

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 23 2025

FOR THE NINTH CIRCUIT

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

MARGARITA FRANCISCO-TOMAS,

No. 24-1063

Petitioner,

Agency No.

A098-801-064

v.

MEMORANDUM*

PAMELA BONDI, Attorney General,

Respondent.

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

Submitted June 13, 2025**
Pasadena, California

Before: CLIFTON, BYBEE, and FORREST, Circuit Judges.

Margarita Francisco-Tomas, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ (“BIA”) dismissal of her appeal of an Immigration Judge’s (“IJ”) denial of her application for protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252.

* 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).

We deny the petition for review.

Because the BIA did not expressly adopt the IJ's opinion, our review is limited to the BIA's decision. *Plancarte Saucedo v. Garland*, 23 F.4th 824, 831 (9th Cir. 2022). We review legal conclusions de novo and the underlying factual findings for substantial evidence. *Id.* Under substantial evidence review, the petitioner "must show that the evidence not only supports, but compels the conclusion that these findings and decisions are erroneous." *Id.* (internal quotation marks omitted).

Eligibility for CAT protection requires Francisco-Tomas to demonstrate that she will more likely than not be tortured upon removal, based on a "*particularized threat* of torture . . . inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity." *Dhital v. Mukasey*, 532 F.3d 1044, 1051 (9th Cir. 2008) (citations omitted) (internal quotation marks omitted). "Generalized evidence of violence and crime is insufficient to establish a likelihood of torture." *Park v. Garland*, 72 F.4th 965, 980 (9th Cir. 2023).

Francisco-Tomas waived any challenge to the IJ's adverse credibility finding. While an adverse credibility finding is "not necessarily a death knell to CAT protection," Francisco-Tomas must provide independent documentary evidence that compels the conclusion that she is more likely than not to be tortured.

Shrestha v. Holder, 590 F.3d 1034, 1048–49 (9th Cir. 2010). The only documentary evidence that Francisco-Tomas points to is a U.S. Department of State report generally describing human rights issues in Guatemala. This report on its own fails to show why the three men who attacked Francisco-Tomas’s uncle are likely to torture Francisco-Tomas with the acquiescence of the Guatemalan government, especially where the record reveals nothing about the men’s identities or possible affiliation with the government. The BIA thus properly determined that Francisco-Tomas did not present independent evidence to overcome the IJ’s adverse credibility finding.

PETITION DENIED.