

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 27 2025

FOR THE NINTH CIRCUIT

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

DAYS DEL CARMEN BARRERA-  
PONCE; et al.,

Petitioners,

v.

PAMELA BONDI, Attorney General,

Respondent.

No. 24-6658

Agency Nos.

A202-094-756

A202-094-755

MEMORANDUM\*

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

Submitted June 18, 2025\*\*

Before: CANBY, S.R. THOMAS, and SUNG, Circuit Judges.

Daysi Del Carmen Barrera-Ponce and her son, natives and citizens of El Salvador, petition pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing their appeal from an immigration judge's decision denying their applications for asylum, withholding of removal, and protection under the

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\* 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).

Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review de novo the legal question of whether a particular social group is cognizable, and review for substantial evidence the agency’s factual findings. *Conde Quevedo v. Barr*, 947 F.3d 1238, 1241-42 (9th Cir. 2020). We deny the petition for review.

The agency did not err in finding that petitioners’ witness-based particular social group is not cognizable. *See Reyes v. Lynch*, 842 F.3d 1125, 1131 (9th Cir. 2016) (to demonstrate membership in a particular social group, “[t]he applicant must ‘establish that the group is (1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question’” (quoting *Matter of M-E-V-G-*, 26 I. & N. Dec. 227, 237 (BIA 2014))); *see also Villegas Sanchez v. Garland*, 990 F.3d 1173, 1180-81, (9th Cir. 2021) (social distinction requires “evidence showing that society in general perceives, considers, or recognizes persons sharing the particular characteristic to be a group” (quoting *Matter of W-G-R-*, 26 I. & N. Dec. 208, 217 (BIA 2014))).

Substantial evidence supports the agency’s determination that petitioners failed to show they were or would be persecuted on account of their family ties. *See Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010) (an applicant’s “desire to be free from harassment by criminals motivated by theft or random violence by

gang members bears no nexus to a protected ground”).

Because petitioners failed to show any nexus to a protected ground, petitioners also failed to satisfy the standard for withholding of removal. *See Barajas-Romero v. Lynch*, 846 F.3d 351, 359-60 (9th Cir. 2017). Thus, petitioners’ asylum and withholding of removal claims fail.

In light of this disposition, we need not reach petitioners’ remaining contentions regarding the merits of their claims. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (courts and agencies are not required to decide issues unnecessary to the results they reach).

Substantial evidence also supports the agency’s denial of CAT protection because petitioners failed to show it is more likely than not petitioners will be tortured if returned to El Salvador. *See Aden v. Holder*, 589 F.3d 1040, 1047 (9th Cir. 2009).

To the extent that petitioners raise new contentions regarding their eligibility for relief, they are not properly before the court because petitioners did not raise them before the BIA. *See* 8 U.S.C. § 1252(d)(1) (administrative remedies must be exhausted); *see also Santos-Zacaria v. Garland*, 598 U.S. 411, 417-19 (2023) (section 1252(d)(1) is not jurisdictional).

The temporary stay of removal remains in place until the mandate issues.

**PETITION FOR REVIEW DENIED.**