NOT FOR PUBLICATION

FILED

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA STEPHANY AGUILAR HERRERA; L.V.P.A.; J. D. P.A., Petitioners, v. PAMELA BONDI, Attorney General, Respondent.	No. 24-5916 Agency Nos. A214-899-657 A214-899-658 A214-899-659 MEMORANDUM[*]

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

Submitted August 13, 2025[**]
Seattle, Washington

Before: HAWKINS, McKEOWN, and WARDLAW, Circuit Judges.

Petitioner Maria Stephany Aguilar Herrera ("Aguilar") and her two minor children, who are derivative petitioners, are citizens of Peru. They seek review of a decision by the Board of Immigration Appeals ("BIA") dismissing the appeal of

[*] 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).

the immigration judge's ("IJ") decision to deny asylum, statutory withholding of removal, and protection under the regulations implementing the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252(a). Where, as here, "the BIA issues its own decision but relies in part on the immigration judge's reasoning, we review both decisions." *Singh v. Holder*, 753 F.3d 826, 830 (9th Cir. 2014) (internal citation omitted). We review for substantial evidence the agency's factual findings, which "are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary." 8 U.S.C. § 1252(b)(4)(B). We review de novo the legal question of whether a particular social group ("PSG") is cognizable. *Diaz-Reynoso v. Barr*, 968 F.3d 1070, 1076 (9th Cir. 2020). We deny the petition.

Aguilar suffered abuse at the hands of her ex-partner and sought relief based on a PSG of "abused family members of abusers in Peru." The BIA did not err in determining that this PSG is not cognizable as it is impermissibly circular, being defined based on the alleged underlying harm. *Diaz-Reynoso*, 968 F.3d at 1082, 1086. While Aguilar now seeks to proffer less circular PSGs, these were not exhausted before the IJ or BIA, and we thus cannot consider them. *Umana-Escobar v. Garland*, 69 F.4th 544, 550 (9th Cir. 2023); 8 U.S.C. § 1252(d)(1). The lack of a cognizable PSG to which Aguilar belongs independently supports the agency's denial of her applications for both asylum and withholding of removal.

Substantial evidence supports the agency's denial of CAT protection. *See* 8 C.F.R. § 1208.16(c)(3). While the police may have failed to respond to Aguilar's report of abuse, Aguilar concedes that the abuse did not rise to the level of torture, 8 C.F.R. § 1208.18(a)(1), and thus the agency had support in finding that the government would not acquiesce to torture. Further, substantial evidence supports the agency's finding that Aguilar could relocate within Peru to avoid her abuser, and the evidence does not compel a contrary conclusion. Aguilar therefore did not demonstrate that it is more likely than not that she will face torture if returned to Peru.

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

PETITION FOR REVIEW DENIED.