NOT FOR PUBLICATION

FILED

AUG 27 2025

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GERMAN FAVELA-OROZCO, Petitioner, v. PAMELA BONDI, Attorney General, Respondent.	No. 24-3275 Agency No. A089-927-219 MEMORANDUM[*]

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

Submitted August 22, 2025[**]
Portland, Oregon

Before: CALLAHAN, M. SMITH, and MENDOZA, Circuit Judges.

German Favela-Orozco ("Favela-Orozco") is a native and citizen of Mexico who entered the United States in 1992. He petitions for review of the Board of Immigration Appeals' ("BIA") denial of his motion to reopen. We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny the petition.

[*] 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 BIA can deny a motion to reopen on any one of "at least" three independent grounds—"failure to establish a prima facie case for the relief sought, failure to introduce previously unavailable, material evidence, and a determination that even if these requirements were satisfied, the movant would not be entitled to the discretionary grant of relief which he sought." *INS v. Doherty*, 502 U.S. 314, 323 (1992). "We review denials of motions to reopen for abuse of discretion, . . . and defer to the BIA's exercise of discretion unless it acted arbitrarily, irrationally, or contrary to law." *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010) (internal citations omitted). Here, the BIA denied Favela-Orozco's motion on two independent grounds, neither of which constituted an abuse of discretion.

1. The BIA first denied Favela-Orozco's motion because he did not establish "a material change in country conditions which overcomes the untimeliness of his motion." *See* 8 U.S.C. § 1229a(c)(7)(C)(ii); 8 C.F.R. § 1003.2(c)(3)(ii). This was not "arbitrary, irrational, or contrary to law." *Chandra v. Holder*, 751 F.3d 1034, 1036 (9th Cir. 2014) (citations omitted). Favela-Orozco based his initial application for relief on cartels working "hand-in-hand" with the Mexican police, and he submitted evidence documenting Mexico's problems with cartel violence and government corruption, including corruption by local police. These are similar "country conditions" to the ones Favela-Orozco now faces with the "Hugs, not Bullets" policy on which he bases his motion to

reopen. Both at his previous hearing and now, the evidence presented shows that cartels are working closely with local officials and killing police officers who stand in opposition to them. The evidence presented in support of Favela-Orozco's motion to reopen was therefore not "qualitatively different" from the evidence presented at his previous hearing such that reopening was warranted. *Najmabadi*, 597 F.3d at 987 (quoting *Malty v. Ashcroft*, 381 F.3d 942, 945–46 (9th Cir. 2004)); *see also Rodriguez v. Garland*, 990 F.3d 1205, 1210 (9th Cir. 2021) ("General references to 'continuing' or 'remaining' problems is not evidence of *a change* in a country's conditions.").

To the extent Favela-Orozco argues the BIA abused its discretion because it offered "only six conclusory sentences of explanation that were not supported by the record," we disagree. "[T]he [BIA] does not have to write an exegesis on every contention. What is required is merely that it consider the issues raised, and announce its decision in terms sufficient to enable a reviewing court to perceive that it has heard and thought and not merely reacted." *Najmabadi*, 597 F.3d at 990 (alterations in original) (quoting *Lopez v. Ashcroft*, 366 F.3d 799, 807 n.6 (9th Cir. 2004)). The BIA did so here, noting the correct legal standard, addressing Favela-Orozco's arguments, and comparing the newly submitted evidence to the evidence available at the time of his previous hearing.

2. The BIA also denied Favela-Orozco's motion because he did not establish prima facie eligibility for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). It provided four reasons for doing so, and we address each in turn.

First, substantial evidence supports the BIA's finding that Favela-Orozco's proposed particular social group is not "socially distinct." *Conde Quevedo v. Barr*, 947 F.3d 1238, 1242 (9th Cir. 2020). Favela-Orozco argues that he is in the social group comprised of "family members of former police officers who adamantly refused to assist corrupt police personnel who work for drug cartels." But social distinction "is determined by the perception of the society in question, rather than by the perception of the persecutor," *id.* (internal quotations and citation omitted), here, the cartel. The record does not compel a finding that Mexican society "recognizes [Favela-Orozco's] proposed social group," *id.* (quoting *Pirir-Boc v. Holder*, 750 F.3d 1077, 1084 (9th Cir. 2014)).

Second, substantial evidence supports the BIA's determination that the cartel did not impute a political opinion to Favela-Orozco. "To establish an imputed political opinion, the applicant must show that his persecutors actually imputed a political opinion to him." *Sangha v. INS*, 103 F.3d 1482, 1489 (9th Cir. 1997). Here, the only evidence of imputation is that the cartel called Favela-Orozco's nephew, a former police officer, and told him that they knew who Favela-Orozco

was. This is not "proof to establish that the [cartel] would impute the views of his [nephew] to him." *Id.* at 1490.

Third, substantial evidence supports the BIA's determination that Favela-Orozco does not have a well-founded fear of persecution because he has family that remains unharmed in Mexico. *See Sharma v. Garland*, 9 F.4th 1052, 1066 (9th Cir. 2021) ("The ongoing safety of family members in the petitioner's native country undermines a reasonable fear of future persecution.").

Finally, substantial evidence supports the BIA's determination that Favela-Orozco failed to identify evidence establishing a likelihood of torture "inflicted by, or at the instigation of, or with the consent or acquiescence of, a public official acting in an official capacity or other person acting in an official capacity." 8 C.F.R. § 1208.18(a)(1). Indeed, Favela-Orozco's nephew submitted a declaration in support of the motion to reopen attesting to the "Central Intelligence of Mexico" working to obtain evidence "to arrest police directors who cooperate with the drug cartel." This supports a finding that the relationship between the Mexican government and drug cartels is not as cooperative as Favela-Orozco claims. *See Andrade-Garcia v. Lynch*, 828 F.3d 829, 836 (9th Cir. 2016) ("[A] general ineffectiveness on the government's part to investigate and prevent crime will not suffice to show acquiescence").

PETITION DENIED.