

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 5 2025

FOR THE NINTH CIRCUIT

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

DILZA GRINELY REYES LOPEZ;
EDDAN ANDRE MORALES REYES,

Petitioners,

v.

PAMELA BONDI, Attorney General,

Respondent.

No. 25-798

Agency Nos.
A245-313-397
A245-313-333

MEMORANDUM*

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

Submitted October 24, 2025**
San Francisco, California

Before: PAEZ, BEA, and FORREST, Circuit Judges.

Petitioners Dilza Grinely Reyes-Lopez (“Reyes-Lopez”) and her minor son, Eddan Andre Morales-Reyes (“Eddan”) are natives and citizens of Guatemala who seek review of a decision of the Board of Immigration Appeals (“BIA”) dismissing

* 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).

their appeal from an immigration judge’s (“IJ”) decision denying their applications for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review *de novo* whether a particular social group is cognizable. *Aleman-Belloso v. Bondi*, 128 F.4th 1031, 1042-43 (9th Cir. 2024) (as amended). We review for substantial evidence factual findings underlying the BIA’s eligibility determinations for asylum and related relief. *Plancarte Saucedo v. Garland*, 23 F.4th 824, 831 (9th Cir. 2022). Reversal of a factual finding by the IJ that was affirmed by the BIA requires evidence in the record that “not only supports, but compels the conclusion” that the factual finding is erroneous. *Cordon-Garcia v. INS*, 204 F.3d 985, 990 (9th Cir. 2000). We deny the petition.

1. Substantial evidence supports the BIA’s determination that Reyes-Lopez is subject to the Circumvention of Lawful Pathways Rule because being a “single mother with a young child” in Mexico does not in itself constitute “an imminent and extreme threat,” and is thus not an “exceptionally compelling circumstanc[e]” to rebut the presumption that the rule applies. 8 C.F.R. § 1208.33(a)(3)(i). The Circumvention of Lawful Pathways rule establishes a “rebuttable presumption of ineligibility for asylum” that applies to aliens, other than Mexican nationals, “who ente[r] the United States from Mexico at the southwest land border or adjacent coastal borders without documents sufficient for lawful admission” between May

11, 2023, and May 11, 2025.¹ 8 C.F.R. § 1208.33(a)(1). The sole argument advanced by Reyes-Lopez on appeal to the BIA was that she rebutted the presumption of ineligibility because “Mexico is not a safe alternative, especially for a single mother of a young child.” Reyes-Lopez does not allege that she experienced any specific imminent and extreme threats or any physical harm in Mexico. This Court is precluded from considering Reyes-Lopez’s additional argument raised on appeal to this Court that she was unable to pursue a lawful pathway because it was not raised by her to the BIA. *Umana-Escobar v. Garland*, 69 F.4th 544, 550 (9th Cir. 2023).

2. Reyes-Lopez’s proposed particular social group based on business ownership is not cognizable. *See Macedo Templos v. Wilkinson*, 987 F.3d 877, 881-83 (9th Cir. 2021) (being a “wealthy business owner” is not an immutable characteristic).

3. Substantial evidence supports the BIA’s determination that Reyes-Lopez was not persecuted on account of a protected ground. Reyes-Lopez stated that Stefano Eduardo Morales Sita (“Stefano”), Eddan’s father, would get “into fights with other people” when he was drunk, including “people he ran into on the street.” With respect to the gang that extorted her, Reyes-Lopez stated that the

¹ Reyes-Lopez does not dispute that she is subject to the Circumvention of Lawful Pathways Rule.

gang extorted all businesses. Reyes-Lopez, in neither her appeal to the BIA, nor to this Court, cites any evidence or facts that rebut the IJ's finding that the harm she suffered was not based on her sex or gender.

4. Substantial evidence supports the BIA's determination that Reyes-Lopez did not establish an objectively reasonable fear of future harm, either in the form of persecution or torture. *See Wakkary v. Holder*, 558 F.3d 1049, 1060 (9th Cir. 2009) (withholding of removal requires either past or future persecution); *Garcia-Milian v. Holder*, 755 F.3d 1026, 1033 (9th Cir. 2014) (CAT relief requires an alien to establish a likelihood that he will be tortured if removed). Reyes-Lopez fears that she will be harmed by Stefano if she returns, but he has not physically harmed her since they separated in January 2019. As for the danger presented by the gang members, neither Reyes-Lopez, nor her family, have been harmed since she closed her tortilla business.

5. In addition, substantial evidence supports the BIA's finding that Reyes-Lopez could relocate to another area of Guatemala to avoid any future harm, and Reyes-Lopez does not cite any evidence to suggest that finding is erroneous. *See Aguilar Fermin v. Barr*, 958 F.3d 887, 893 (9th Cir. 2020) (affirming denial of CAT relief where substantial evidence supported conclusion that alien could relocate within Mexico to avoid any future torture). In her appeal to the BIA, Reyes-Lopez claimed that she could not relocate in Guatemala because the gang

found her at her parent's farm, and she believes the gang operated at a national level. However, Reyes-Lopez's parents lived in "the town that [was] closest to" where Reyes-Lopez lived. Further, Reyes-Lopez stated that she does not know the identity of the gang that extorted her.

PETITION DENIED.