NOT FOR PUBLICATION

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JAN 15 2026

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RENE ACOSTA-TAPIA,

Petitioner,

v.

PAMELA J. BONDI, Attorney General,

Respondent.

No. 25-2460

Agency No.
A97-782-644

MEMORANDUM*

On Petition for Review of an Order of the
Department of Homeland Security

Submitted January 8, 2026**
Phoenix, Arizona

Before: HAWKINS, RAWLINSON, and BRESS, Circuit Judges.

Rene Alberto Acosta-Tapia (Acosta-Tapia), a native and citizen of Mexico, petitions for review of a decision from an Immigration Judge (IJ) affirming the negative reasonable fear determination of the Department of Homeland Security (DHS). We have jurisdiction under 8 U.S.C. § 1252, and we dismiss 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).

for review as untimely. But we also explain why the petition would fail even if it were timely.

1. 8 U.S.C. § 1252(b)(1) requires that a petition for review be filed within thirty days of the final order of removal. Acosta-Tapia's petition for review filed on April 16, 2025, would be timely if the IJ's order affirming the DHS reasonable fear determination, entered that same day, was the final order of removal in this case. But, the Supreme Court recently determined that an "order of removal" is an "order concluding that the [noncitizen] is deportable or ordering deportation." *Riley v. Bondi*, 606 U.S. 259, 267 (2025) (citation and internal quotation marks omitted). Under this reasoning, Acosta-Tapia's reinstated removal order entered on November 18, 2022, is the "qualifying order," because that order "concluded that [Acosta-Tapia] is deportable and commanded his deportation." *Id.* (internal quotation marks omitted). Thus, the 30-day deadline to petition for review began to run on November 18, 2022, and the petition filed over two years later was untimely. *See id.*

The thirty-day filing deadline under 8 U.S.C. § 1252(b)(1) is a claims-processing rule. *Id.* at 275. Because the Government has raised the rule, we must enforce it and dismiss the petition. *See Suate-Orellana v. Garland*, 101 F.4th 624, 629 (9th Cir. 2024). And as Acosta-Tapia did not "specifically and distinctly" argue equitable tolling, we decline to consider this argument. *See Singh v.*

Garland, 118 F.4th 1150, 1156 n.1 (9th Cir. 2024) (citation omitted). Similarly, although Acosta-Tapia argues that *Riley* should not be applied retroactively, he does not cite any authority in support of this argument. Accordingly, we do not consider Acosta-Tapia's retroactivity argument. *See United States v. Cazares*, 788 F.3d 956, 983 (9th Cir. 2015) ("The failure to cite to valid legal authority waives a claim for appellate review. . . .") (citation omitted).

2. Even if Acosta-Tapia's petition had been timely, the IJ's negative reasonable fear determination was supported by substantial evidence. *See Hermosillo v. Garland*, 80 F.4th 1127, 1128, 1131 (9th Cir. 2023). "To be eligible for . . . withholding of removal,[1] [the noncitizen] must show that he is a refugee—someone who is unable or unwilling to return to the country of origin because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. . . ." *Singh v. Bondi*, 161 F.4th 560, 565 (9th Cir. 2025) (citations and internal quotation marks omitted).

Acosta-Tapia argued that he was persecuted on account of his family membership and as a landowner. But we have repeatedly emphasized that "[a noncitizen'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. . . ."

[1] Acosta-Tapia does not assert that he is eligible for asylum.

Zetino v. Holder, 622 F.3d 1007, 1016 (9th Cir. 2010), *as amended* (citations omitted); *see also Macedo Templos v. Wilkinson*, 987 F.3d 877, 883 (9th Cir. 2021); *Rodriguez-Zuniga v. Garland*, 69 F.4th 1012, 1020 (9th Cir. 2023).

Substantial evidence also supports the determination that Acosta-Tapia failed to demonstrate that any "persecution was committed by the government, or by forces that the government was unable or unwilling to control." *Singh*, 161 F.4th at 565 (citation omitted). In this case, the existence of random violence does not establish government acquiescence.

3. "To establish eligibility for [relief under the Convention Against Torture], a petitioner must show that it is more likely than not that he or she would be tortured if removed to the proposed country of removal. . . ." *Uc Encarnacion v. Bondi*, 156 F.4th 927, 941 (9th Cir. 2025) (citations and internal quotation marks omitted). The torture must be "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." *Id.* (citations omitted).

Acosta-Tapia's claim under the Convention Against Torture fails because substantial evidence supports the determination that Acosta-Tapia did not establish "that the Mexican government or local Mexican officials are aware of and have acquiesced in any . . . plan to torture" him. *See B.R. v. Garland*, 26 F.4th 827, 845 (9th Cir. 2022).

PETITION DISMISSED.[2]

[2] The stay of removal will remain in place until the mandate issues. The motion for stay of removal (Dkt. No. 3) is otherwise denied.