

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 17 2026

FOR THE NINTH CIRCUIT

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

GENDY LOURDES GODOY-PERDOMO;
FREDDY EDUARDO MARTINEZ-
GODOY,

Petitioners,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 18-71122

Agency Nos. A208-904-361
A208-904-362

MEMORANDUM*

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

Submitted March 13, 2026**
Las Vegas, Nevada

Before: BENNETT and SANCHEZ, Circuit Judges, and EZRA, *** District Judge.

* 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 Honorable David A. Ezra, United States District Judge for the District of Hawaii, sitting by designation.

Gendy Lourdes Godoy-Perdomo and her minor son F.E.M.G, natives and citizens of Honduras, petition for review of the Board of Immigration Appeals (“BIA”) decision dismissing their appeal of an Immigration Judge’s (“IJ”) denial of their applications for asylum and withholding of removal.¹ We review questions of law *de novo* and factual findings for substantial evidence. *See Diaz-Reynoso v. Barr*, 968 F.3d 1070, 1076 (9th Cir. 2020). We have jurisdiction under 8 U.S.C. § 1252(a), and we deny the petition.

1. Petitioners have not preserved their claim that they are eligible for asylum and withholding of removal based on their membership in a family. Petitioners did not present a family-based particular social group before the IJ, nor did Petitioners make this argument in their appeal to the BIA. Accordingly, this claim is unexhausted and unreviewable. 8 U.S.C. § 1252(d)(1) (“A court may review a final order of removal only if . . . the alien has exhausted all administrative remedies available to the alien as of right . . .”); *see also Umana-Escobar v. Garland*, 69 F.4th 544, 550 (9th Cir. 2023) (recognizing that 8 U.S.C. § 1252(d)(1) is a mandatory claims-processing rule).

2. Petitioners have not preserved their claim that the IJ violated Godoy-Perdomo’s due process rights. Petitioners contend that Godoy-Perdomo was not

¹ The agency also denied Petitioners’ request for protection under the Convention Against Torture. Petitioners do not challenge that denial on appeal.

competent at her IJ hearings and therefore that her waiver of counsel was not knowing and voluntary. Before the BIA, Petitioners retained counsel and argued that Godoy-Perdomo “had no idea as to how to formulate” legal arguments and could not “fully explain the magnitude of the situation” due to her “limited grasp of language.” Those statements did not put the BIA sufficiently on notice of the contention that Godoy-Perdomo had not knowingly and intelligently waived her right to counsel. *See Umana-Escobar*, 69 F.4th at 550. Petitioners’ due process claim is unexhausted and must therefore be denied. *See Iraheta-Martinez v. Garland*, 12 F.4th 942, 949 (9th Cir. 2021) (holding that due process claims are subject to the exhaustion requirement so long as “the BIA could have granted [petitioner] relief on his due process claim had he raised it in his agency appeal”).

3. Binding precedent forecloses Petitioners’ final claim that, because Petitioners received a defective Notice to Appear (“NTA”), the IJ lacked jurisdiction over their removal proceedings under *Pereira v. Sessions*, 585 U.S. 198 (2018). We have expressly rejected that reading of *Pereira*. *See Karingithi v. Whitaker*, 913 F.3d 1158, 1158–59 (9th Cir. 2019) (holding that the IJ “had jurisdiction over the removal proceedings” where, as here, “the initial notice to appear does not specify the time and date of the proceedings, but later notices of hearing include that information”); *Aguilar Fermin v. Barr*, 958 F.3d 887, 895 (9th Cir. 2020) (stating that the “the lack of time, date, and place in the NTA sent to

Aguilar did not deprive the immigration court of jurisdiction over [petitioner's] case"). Therefore, the IJ had jurisdiction over Petitioners' removal proceedings.

PETITION DENIED.²

² The temporary stay of removal remains in place until the mandate issues.