

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 20 2026

FOR THE NINTH CIRCUIT

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

JAVIER ALEXANDER MORENO
GAONA; ANDREA PAOLA CASAS
NAGLES; M. A. M. C.,

Petitioners,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-6943

Agency Nos.
A241-911-974
A241-911-973
A241-911-975

MEMORANDUM*

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

Submitted August 14, 2026**
San Francisco, California

Before: LEE, MENDOZA, JR., and DE ALBA, Circuit Judges.

Javier Alexander Moreno Gaona, his wife Andrea Paola Casas Nagles, and their daughter M.A.M.C. (together “Petitioners”), all natives and citizens of Colombia, seek review of a decision from the Board of Immigration Appeals (BIA)

* 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).

affirming the Immigration Judge's (IJ) denial of their applications for asylum, withholding of removal, and protection under the Convention Against Torture (CAT).¹ We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny the petition for review.

“Where the BIA conducts its own review of the evidence and law, rather than adopting the IJ's decision, our review is limited to the BIA's decision, except to the extent the IJ's opinion is expressly adopted.” *Guerra v. Barr*, 974 F.3d 909, 911 (9th Cir. 2020) (quoting *Rodriguez v. Holder*, 683 F.3d 1164, 1169 (9th Cir. 2012)). We review the agency's factual determinations for “substantial evidence.” *Cordoba v. Holder*, 726 F.3d 1106, 1113 (9th Cir. 2013). We review legal questions and due process claims de novo. *Id.*; *Cruz Rendon v. Holder*, 603 F.3d 1104, 1109 (9th Cir. 2010).

1. First, we decline to summarily dismiss the petition for review. The government has failed to show that Petitioners' opening brief fails to comply with Federal Rule of Appellate of Procedure 28(a)(6) or 28(a)(8)(A), or with Ninth Circuit Rule 28-2.8. Furthermore, there is no indication that Petitioners' counsel failed to “make a good-faith attempt to comply with the rules of appellate procedure” governing citations to the record. *See Han v. Stanford Univ.*, 210 F.3d 1038, 1040

¹ Each Petitioner filed his or her own application for relief. Moreno Gaona and Casas Nagles also named each other and M.A.M.C. as derivative beneficiaries on their applications.

(9th Cir. 2000).

2. Second, we deny the petition to the extent it seeks review of the agency’s denial of asylum and withholding of removal. To be eligible for asylum and/or withholding of removal, an applicant must show, among other things, that the persecution she fears was, or will be, committed by the government or forces that the government is “unable or unwilling to control.” *Plancarte Saucedo v. Garland*, 23 F.4th 824, 832 (9th Cir. 2022). Here, the BIA affirmed the IJ’s finding that there was “insufficient evidence in the record to show that the government is unwilling or unable to control [those who harmed Petitioners]” and substantial evidence supports this finding.

Moreno Gaona was employed as a bus driver when two cartel members asked him to transport a briefcase for them. When Moreno Gaona refused to get involved, the men threatened him. Moreno Gaona did not report the encounter to the police. Approximately four days later, members of the same cartel again approached Moreno Gaona and asked him to work with them. When Moreno Gaona again refused to get involved, the men aimed a gun at him and beat him. This time Moreno Gaona went to “the authorities.” In response, a “prosecutor” took his statement and created a written report of the incident.

As to the written report itself, we reject Petitioners’ argument the IJ “improperly speculated that [Moreno Gaona] may have failed to provide sufficient

descriptions of his assailants in the police report, and that this purported deficiency explained the lack of police response.” The IJ correctly observed that there “were limited descriptions of the assailants given to the police *on the attorney general report*, potentially limiting [the] police response and investigation.” The IJ never speculated, however, as to *why* the descriptions in the report were limited. Furthermore, IJ’s are “entitled to draw inferences logically flowing from the evidence.” *Sample v. Schweiker*, 694 F.2d 639, 642 (9th Cir. 1982).

The record also shows that Moreno Gaona never followed up with the prosecutor or the police when, about a month later, the cartel struck his wife, Casas Nagles, in the leg with a steel object as “a warning.” Nor did he follow up when the cartel sent threatening texts, including a photo that suggested the cartel knew where his daughter, M.A.M.C., went to school. Casas Nagles and M.A.M.C. also never filed reports. The BIA noted Petitioners’ concern that the police in Colombia would not do anything even if they filed additional reports but also noted “country condition evidence” indicates “law enforcement generally investigates claims of harm by non-state actors.” It then concluded Petitioners had not met their burden in showing the government is unable or unwilling to protect them. Because the record does not compel a contrary conclusion, we deny the petition to review the agency’s denial of asylum and withholding of removal. *See Avetova-Elisseva v. I.N.S.*, 213 F.3d 1192, 1196 (9th Cir. 2000) (“[A] petitioner contending that the [BIA’s] findings

are erroneous must establish that the evidence not only *supports* that conclusion, but *compels* it.” (quoting *Ghaly v. INS*, 58 F.3d 1425, 1431 (9th Cir. 1995)).²

3. We also deny the petition to the extent it seeks review of the agency’s denial of humanitarian asylum. An asylum applicant who has experienced past persecution but lacks a well-founded fear of future persecution may still be eligible for humanitarian asylum if certain criteria are met. *Mohammed v. Gonzales*, 400 F.3d 785, 801 (9th Cir. 2005) (citing 8 C.F.R. § 1208.13(b)(1)(iii)(A), (B)). Here, the agency concluded Petitioners were not eligible for humanitarian asylum because they failed to establish the past persecution required for such relief. Denying humanitarian asylum on this ground was not error.

4. Finally, we deny the petition to the extent it seeks review of the agency’s denial of protection under CAT. “To be eligible for relief under CAT, an applicant bears the burden of establishing that she will more likely than not be tortured with the consent or acquiescence of a public official if removed to her native country.” *Xochihua-Jaimes v. Barr*, 962 F.3d 1175,1183 (9th Cir. 2020).

We find no merit to Petitioners’ argument that the BIA “deprived them of due process” by failing “to adequately address” their CAT claim. The BIA “does not

² Because this determination is dispositive of Petitioners’ applications for asylum and withholding of removal, we decline to address Petitioners’ other arguments. See *Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (noting courts are not required to decide issues unnecessary to the results they reach).

have to write an exegesis on every contention.” *Najmabadi v. Holder*, 597 F.3d 983, 990 (9th Cir. 2010). The BIA is merely required to “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.” *Id.* Here, that standard was met. The BIA noted that Petitioners had not established “that the cartel would have any future interest in them” and thus had not established that they had an objectively reasonable fear of future persecution. The BIA then noted: “They also [have] not met the higher standard of demonstrating torture is more likely than not as required for protection under the CAT.” In other words, the BIA concluded that because there was insufficient evidence to show that anyone in Colombia would seek to harm Petitioners, there was insufficient evidence to show that Petitioners would *more likely than not be tortured* in Colombia. We find substantial evidence supports this conclusion. *See Almaghzar v. Gonzales*, 457 F.3d 915, 922-23 (9th Cir. 2006) (“Although the reports confirm that torture takes place . . . they do not compel the conclusion that [*petitioner*] would be tortured if returned.” (emphasis added)).

THE PETITION FOR REVIEW IS DENIED.¹

¹ Petitioners’ Motion to Stay Removal, Dkt No. 2, and Supplemental Motion to Stay Removal, Dkt. No. 13, are DENIED as moot.