

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 31 2026

FOR THE NINTH CIRCUIT

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

DANIA ZUCELY MAYORGA,

Petitioner,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-4204

Agency No.
A209-439-539

MEMORANDUM*

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

Submitted August 25, 2026**

Before: SILVERMAN, N.R. SMITH, and DE ALBA, Circuit Judges.

Dania Zucely Mayorga, a native and citizen of Guatemala, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's ("IJ") decision denying her applications for asylum, withholding of removal, and protection under the Convention Against

* 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).

Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We review for substantial evidence the agency’s factual findings. *Arrey v. Barr*, 916 F.3d 1149, 1157 (9th Cir. 2019). We grant in part and deny in part the petition for review, and we remand.

The BIA erred in concluding that Mayorga waived any challenge to the IJ’s adverse credibility determination. *See Martinez v. Barr*, 941 F.3d 907, 922 (9th Cir. 2019) (“Our precedent requires nothing more than putting the BIA on notice of a challenge such that the BIA had an opportunity to pass on it.” (internal quotation marks and citation omitted)); *see also Gonzalez-Lara v. Garland*, 104 F.4th 1109, 1116 (9th Cir. 2024) (reviewing the BIA’s waiver determination for error). Thus, we grant the petition for review as to Mayorga’s asylum and withholding claims, and remand those claims to the BIA for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (9th Cir. 2002).

Substantial evidence supports the agency’s denial of CAT protection where the agency assumed that Mayorga testified credibly and found Mayorga failed to show it is more likely than not she will be tortured by or with the consent or acquiescence of the government if returned to Guatemala. *See Garcia-Milian v. Holder*, 755 F.3d 1026, 1033 (9th Cir. 2014) (“torture must be ‘inflicted by or at

the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”” (internal citation omitted)). Thus, we deny the petition for review as to CAT relief.

The motion to stay removal is granted. The stay of removal remains in place until the mandate issues.

Each party must bear its own costs for this petition for review.

**PETITION FOR REVIEW GRANTED in part; DENIED in part;
REMANDED.**