

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 18 2026

FOR THE NINTH CIRCUIT

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

SALVADOR PABLO-MARTIN,

No. 18-70471

Petitioner,

Agency No. A213-081-598

v.

MEMORANDUM*

TODD BLANCHE, Attorney General,

Respondent.

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

Submitted September 16, 2026**
Pasadena, California

Before: R. NELSON and DESAI, Circuit Judges, and SCHREIER, *** District
Judge.

Salvador Pablo-Martin (“petitioner”), a native and citizen of Guatemala,
petitions for review of a Board of Immigration Appeals (“BIA”) decision 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).

*** The Honorable Karen E. Schreier, United States District Judge for the District
of South Dakota, sitting by designation.

his appeal of an immigration judge's ("IJ") order denying his application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). Petitioner asserts that he fears persecution or torture if returned to Guatemala because a gang member who wanted to date his daughter demanded a weekly payment in exchange for not dating her. The BIA denied petitioner's asylum and withholding of removal claims because he failed to meaningfully argue that his feared harm bears a nexus to a protected ground, and denied his CAT claim because he failed to challenge the IJ's finding that he did not prove government acquiescence. Petitioner also alleged that the IJ violated his due process rights by failing to grant a continuance so that he could obtain additional evidence, and the BIA denied the claim because petitioner did not prove that the proceedings were fundamentally unfair or that he suffered any prejudice.

We have jurisdiction under 8 U.S.C. § 1252. We review legal questions, including due process claims, de novo. *See Gonzaga-Ortega v. Holder*, 736 F.3d 795, 800 (9th Cir. 2013). We deny the petition.

1. Petitioner failed to preserve a challenge to the denial of his asylum and withholding of removal claims. The IJ defined petitioner's particular social group ("PSG") as "individuals who have confronted gangs and rejected their overtures from crime, in this case, extortion." Before this court, petitioner argues only that the harm he suffered clearly rises to the level of persecution and was on account of his

membership in a family-based PSG. The petitioner forfeited a challenge to the BIA's conclusion that he failed to meaningfully argue that his feared harm bears a nexus to the gang-related PSG by failing to argue it before this court. *See Martinez-Serrano v. I.N.S.*, 94 F.3d 1256, 1260 (9th Cir. 1996). And petitioner failed to exhaust the family-based PSG he raises in his petition for review by failing to raise it before the BIA. *See* 8 U.S.C. § 1252(d)(1); *Santos-Zacaria v. Garland*, 598 U.S. 411, 417 (2023) (explaining that exhaustion is a mandatory claims processing rule); *Rizo v. Lynch*, 810 F.3d 688, 692–93 (9th Cir. 2016). Because the agency's nexus finding is dispositive of petitioner's asylum and withholding of removal claims, we deny the petition with respect to both claims.

2. Petitioner failed to exhaust a challenge to his CAT claim. *See* 8 U.S.C. § 1252(d)(1). The IJ denied petitioner's CAT claim because he failed to demonstrate government acquiescence. Petitioner's notice of appeal before the BIA challenged only the denial of his asylum claim. The notice of appeal thus failed to "put the BIA on notice" of any challenge to the denial of his CAT claim. *See Bare v. Barr*, 975 F.3d 952, 960 (9th Cir. 2020); *Santos-Zacaria*, 598 U.S. at 417.

3. Petitioner's due process claims fail. He argues that the IJ violated his due process rights by failing to grant a continuance and failing to allow him to gather evidence to present his case. To prevail on a due process challenge, petitioner must show error and substantial prejudice. *See Lata v. I.N.S.*, 204 F.3d 1241, 1246 (9th

Cir. 2000). Prejudice means “that the alleged violation affected the outcome of the proceedings.” *Id.* Here, at a minimum, petitioner does not show prejudice because he does not explain what evidence he was unable to present nor how it would have helped his claim. Moreover, at his hearing, petitioner stated that he lacked general country conditions evidence, and in response, the IJ admitted the most recent Human Rights Report for Guatemala into the record. *See Gutierrez v. Holder*, 662 F.3d 1083, 1091 (9th Cir. 2011) (holding that the exclusion of telephone witnesses did not violate due process when other witnesses testified to the same type of evidence). He thus fails to show that the alleged due process violations “affected the outcome” of his proceedings.¹ *See Lata*, 204 F.3d at 1246.

Petition DENIED.²

¹ Petitioner also failed to exhaust his argument that the immigration court lacked jurisdiction over the removal proceedings based on defects in his notice to appear. In any event, the argument is squarely foreclosed by *United States v. Bastide-Hernandez*, 39 F.4th 1187 (9th Cir. 2022) (en banc) (holding that “defects in an NTA . . . have no bearing on an immigration court’s adjudicatory authority”).

² The motion for stay of removal, **Dkt. 1**, is denied.