

NOT FOR PUBLICATION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

PABLO MARTINEZ-SANCHEZ,

No. 20-72243

Petitioner,

Agency No.

v.

A206-263-172

TODD BLANCHE, Attorney General,

MEMORANDUM\*

Respondent.

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

Submitted September 15, 2026\*\*  
Phoenix, Arizona

Before: M. SMITH and TUNG, Circuit Judges, and KANE, District Judge\*\*\*.

Pablo Martinez-Sanchez (“Martinez-Sanchez”), a native and citizen of Mexico, petitions for review of an order of the Board of Immigration Appeals (“BIA”) dismissing his appeal of the order of the Immigration Judge (“IJ”) denying

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\* 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 Yvette Kane, United States District Judge for the Middle District of Pennsylvania, sitting by designation.

his applications for withholding of removal and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252 and we deny the petition.

Where, as here, “the BIA adopts and affirms an IJ’s decision with further reasoning, this court reviews both the decision of the IJ and the BIA.” *Alcaraz-Enriquez v. Garland*, 19 F.4th 1224, 1229 n.2 (9th Cir. 2021). We review the BIA’s determination that Martinez-Sanchez is not entitled to withholding of removal and CAT protection for substantial evidence. *Hussain v. Rosen*, 985 F.3d 634, 641–42 (9th Cir. 2021).

1. Substantial evidence supports the adverse credibility finding underpinning the BIA’s denial of Martinez-Sanchez’s withholding of removal claim. The IJ supported his adverse credibility determination with “specific and cogent reasons” based on an inconsistency between Martinez-Sanchez’s testimony and his application for asylum regarding whether he was beaten once or “numerous times” by cartel members in Mexico, and a statement included in his I-213 form that Martinez-Sanchez asserted, at the time he was taken into immigration custody in September 2014, that he had no fear of persecution or torture if removed to Mexico.<sup>1</sup> *Shrestha v. Holder*, 590 F.3d 1034, 1042–44 (9th Cir. 2010). Because

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<sup>1</sup> Contrary to Martinez-Sanchez’s assertions, he was not entitled to cross-examine the immigration officer who prepared the I-213 form because he failed to produce evidence to suggest that the form contained material errors. *Hernandez v.*

the reasons the IJ provided to support his adverse credibility determination consisted of something more than “trivial inconsistencies that under the total circumstances have no bearing on [Martinez-Sanchez]’s veracity” because they went to the very heart of his claim of fear of persecution in Mexico, *id.* at 1042–44, 1047, and because the IJ was not obligated to credit Martinez-Sanchez’s explanations for the above noted inconsistencies, *Dong v. Garland*, 50 F.4th 1291, 1300–01 (9th Cir. 2022), the record does not compel the conclusion that the IJ erred in finding Martinez-Sanchez not credible, and, in consequence, unable to meet his burden of proof for withholding of removal, *Kalulu v. Bondi*, 128 F.4th 1009, 1014 (9th Cir. 2024) (noting that the BIA may deny withholding of removal if it “deems an applicant’s testimony, under the totality of the circumstances, not to be credible, [as] the lack of credible testimony renders the applicant unable to meet [his or her] burden [of proof]”).

2. The record does not compel the conclusion that the BIA erred by

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*Garland*, 52 F.4th 757, 767 (9th Cir. 2022) (noting that “[w]here the applicant ‘has offered no evidence to show that the [I-213] form contains material errors,’ there is no right to demand cross-examination” (quoting *Espinoza v. INS*, 45 F.3d 308, 310 (9th Cir. 1995))). Accordingly, it was not improper for the IJ to rely on the statements included in the I-213, *see id.*, or to find that the lack of fear statement noted in the I-213 weighed in favor of an adverse credibility determination where the only explanation Martinez-Sanchez provided for the statement’s existence was “I don’t remember if I said that,” *see Ruiz-Colmenares v. Garland*, 25 F.4th 742, 749 (9th Cir. 2022) (petitioner’s failure to provide a plausible explanation “was properly considered and weighed by the agency in making its adverse credibility determination”).

denying Martinez-Sanchez’s CAT protection claim—based on the same factual predicate as his withholding of removal claim—because he failed to establish that he more likely than not would be tortured by or with the consent or acquiescence of a public official or other person acting in an official capacity if he were removed to Mexico. 8 C.F.R. §§ 1208.16(c)(2), 1208.18(a)(1). Because substantial evidence supports the BIA’s adverse credibility determination, Martinez-Sanchez cannot establish his entitlement to CAT protection based on his testimony alone. 8 C.F.R. § 1208.16(c)(2) (stating, as to CAT protection, that “[t]he testimony of the applicant, if credible, may be sufficient to sustain the burden of proof without corroboration”). When a “petitioner’s testimony is found not credible, to reverse the BIA’s decision denying CAT protection, [this court] would have to find that” evidence in the record outside of the petitioner’s discredited testimony independently “compel[s] the conclusion that the petitioner is more likely than not to be tortured.” *Shrestha*, 590 F.3d at 1048–49 (citation modified).

Here, the only relevant evidence left in the record after excluding Martinez-Sanchez’s discredited testimony is the testimony provided by his adoptive parents and the various articles and the country conditions report reflecting, *inter alia*, evidence of general violence and the possibility of torture in Mexico—neither of which compels the conclusion that Martinez-Sanchez is entitled to CAT relief. Although the articles and country conditions report “confirm that torture takes

place in [Mexico], they do not compel the conclusion that [Martinez-Sanchez in particular] would be tortured if returned” there. *Almaghzar v. Gonzales*, 457 F.3d 915, 923 (9th Cir. 2006).

3. Martinez-Sanchez argues that the BIA lacked jurisdiction over his case because his Notice to Appear did not state the time and date of his initial removal hearing. His argument was not administratively exhausted because he failed to raise the argument before the BIA. *See* 8 U.S.C. § 1252(d)(1) (stating that “[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”); *Ruiz-Colmenares*, 25 F.4th at 748 (holding that the petitioner’s argument that the BIA lacked jurisdiction over his removal proceedings because his charging document failed to specify the time and date of his hearing was not properly before the court because “it was not raised before the agency” and was therefore unexhausted). Even if Martinez-Sanchez had exhausted review of his jurisdictional argument, it is foreclosed on the merits by *Karingithi v. Whitaker*, 913 F.3d 1158 (9th Cir. 2019), and *United States v. Bastide-Hernandez*, 39 F.4th 1187 (9th Cir. 2022) (en banc).

**PETITION DENIED.**