

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 21 2026

FOR THE NINTH CIRCUIT

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

MANUEL GUEVARA-MATEUS; MARIA
TOVAR-RODRIGUEZ; S.G.T.,

Petitioners,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-5190

Agency Nos.

A220-721-848

A220-486-567

A220-486-568

MEMORANDUM*

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

Submitted September 17, 2026**
Pasadena, California

Before: NGUYEN, R. NELSON, and DESAI, Circuit Judges.

Petitioners Manuel Guevara-Mateus, Maria Tovar-Rodriguez, and their minor child, natives and citizens of Colombia, seek review of a Board of Immigration Appeals (BIA) decision dismissing an appeal from a decision by an Immigration

* 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).

Judge (IJ), which denied their applications for asylum, withholding of removal, and protection under the Convention Against Torture (CAT).¹ We have jurisdiction under 8 U.S.C. § 1252. We deny the petition.

We “review the entirety of the agency’s conclusions—both the underlying factual findings and the application of the INA to those findings—for substantial evidence.” *Urias-Orellana v. Bondi*, 607 U.S. 537, 545 (2026). Under substantial evidence review, “a factual finding is not supported by substantial evidence when any reasonable adjudicator would be compelled to conclude to the contrary based on the evidence in the record.” *Singh v. Garland*, 57 F.4th 643, 651 (9th Cir. 2023) (cleaned up). This standard applies “to the agency’s conclusion that a given set of undisputed facts does not constitute persecution.” *Urias-Orellana*, 607 U.S. at 539.

1. Substantial evidence supports the agency’s finding that Guevara-Mateus did not suffer past persecution. We have held that “unfulfilled threats alone generally do not constitute past persecution.” *Ruano v. Ashcroft*, 301 F.3d 1155, 1160 (9th Cir. 2002). Instead, “[w]e generally look at all of the surrounding circumstances to determine whether the threats are actually credible and rise to the level of persecution.” *Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1028 (9th Cir. 2019). To rise to the level of persecution, threats must be “so menacing as to

¹ Guevara-Mateus’s wife and child are derivative applicants to his application and do not seek relief separate from that application.

cause significant actual suffering or harm.” *Id.* (quoting *Lim v. INS*, 224 F.3d 929, 936 (9th Cir. 2000)). “This means that ‘some circumstances that cause petitioners physical discomfort or loss of liberty do not qualify as persecution, despite the fact that such conditions have caused the petitioners some harm.’” *Sharma v. Garland*, 9 F.4th 1052, 1060 (9th Cir. 2021) (quoting *Mihalev v. Ashcroft*, 388 F.3d 722, 729 (9th Cir. 2004)).

As the BIA concluded, this case aligns more closely with *Duran-Rodriguez*, where the petitioner had been threatened over the phone and in person “by a group of seven armed sicarios,” who told him that if he refused their offer “he should leave the city or be killed.” 918 F.3d at 1027. But the men “took no actions of violence against Duran-Rodriguez, his family or property beyond the threats.” *Id.* at 1028. We thus concluded that “although it may have been *possible* for the IJ to conclude that the threats were sufficiently serious and credible to rise to the level of persecution, we cannot say the evidence *compels* the conclusion that Duran-Rodriguez suffered past persecution.” *Id.* Likewise, Petitioners here only received unfulfilled threats from the Black Eagles and did not experience “significant actual suffering or harm.” *Id.* at 1028 (cleaned up). Petitioners make no attempt to distinguish *Duran-Rodriguez*, the case that the BIA concluded is most similar to Guevara-Mateus’s. The BIA also distinguished cases Guevara-Mateus relied on,

demonstrating how the harm suffered by Guevara-Mateus is not “nearly such extreme cumulative harm” as those cases.

Petitioners attempt to argue that the Board misapplied this court’s precedent. The Board did not misapply precedent, but articulated why those cases differ from this one, including the youth of the petitioner and harm to family members in those cases, neither of which is present here. “[U]nder the deferential substantial evidence standard and our precedents on the past persecution requirement, the record does not compel the conclusion that [Guevara-Mateus] suffered hardship . . . that rose to the level of persecution.” *Sharma*, 9 F.4th at 1060.

2. Because Guevara-Mateus did not show that he faced past persecution, he is not entitled to a rebuttable presumption of future persecution. 8 C.F.R. § 1208.13(b)(1). The BIA concluded that because the Black Eagles have not contacted Petitioner or his family still in Colombia since he has been in the United States, he had not shown an objective basis for his fear of future persecution. The record does not compel a different conclusion. *Sharma*, 9 F.4th at 1065–66. Petitioners’ failure to establish past persecution and a well-founded fear of future persecution is dispositive of their applications for asylum and withholding of removal. *Id.*

3. Furthermore, the BIA could reasonably conclude that Petitioners did not suffer past harm which rose to the level of persecution; therefore their argument

for CAT protection necessarily falls short. *Id.* at 1067. No evidence in the record compels the conclusion that Petitioners have an objective fear of future torture or persecution. In all, we cannot say that the BIA's conclusions are so unreasonable as to compel any reasonable adjudicator to reverse. *See Urias-Orellana*, 607 U.S. at 543–44. Substantial evidence supports the BIA's decision.

PETITION DENIED.²

² Petitioner's motion to stay removal (Dkt. No. 2) is denied.