

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 22 2026

FOR THE NINTH CIRCUIT

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

ZAIRA MARILENA ELIAS TECUN-DE
DE LEON; J. M. D. L.-E.; M. I. D. L.-E.; J.
A. D. L.-E.,

Petitioners,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-5717

Agency Nos.

A249-034-920

A249-034-978

A249-034-979

A249-034-981

MEMORANDUM*

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

Submitted September 18, 2026**
Pasadena, California

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

Zaira Marilena Elias Tecun-De De Leon (“Tecun-De De Leon”) and her
three children, J.M.D.L.-E., M.I.D.L.-E., and J.A.D.L.-E, (collectively,
“Petitioners”) are natives and citizens of Guatemala. Petitioners seek review of a

* 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).

decision by the Board of Immigration Appeals (“BIA”) affirming the denial by an immigration judge (“IJ”) of 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, and we deny the petition.

“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) (internal quotation marks and citation omitted). We review legal questions de novo and factual findings for substantial evidence. *See Gonzalez-Rivera v. I.N.S.*, 22 F.3d 1441, 1444 (9th Cir. 1994). We review de novo determinations of whether a particular social group is cognizable. *Perdomo v. Holder*, 611 F.3d 662, 665 (9th Cir. 2010).

1. In her briefing before the BIA and this court, Tecun-De De Leon made no meaningful argument challenging that IJ’s determination that she failed to demonstrate that either of her proposed particular social groups are socially distinct. Because Tecun-De De Leon failed to exhaust this argument and has not

¹ J.M.D.L.-E., M.I.D.L.-E., and J.A.D.L.-E are derivative beneficiaries on Tecun-De De Leon’s asylum applications, and Petitioners have not made any separate arguments challenging the IJ’s denial of J.M.D.L.-E., M.I.D.L.-E., and J.A.D.L.-E’s applications for relief and protection from removal. This disposition will, therefore, generally refer to the singular Petitioner Tecun-De De Leon.

established that her proposed particular social groups are cognizable, she is not eligible for asylum or withholding of removal.² *See Abebe v. Mukasey*, 554 F.3d 1203, 1208 (9th Cir. 2009) (en banc) (“Petitioner will therefore be deemed to have exhausted only those issues he raised and argued in his brief before the BIA.”); *Umana-Escobar v. Garland*, 69 F.4th 544, 550 (9th Cir. 2023) (explaining that although the exhaustion requirement under 8 U.S.C. § 1252(d)(1) is not jurisdictional, we must enforce it when the government properly raises it).

2. Substantial evidence supports the agency’s denial of CAT protection.

Tecun-De De Leon did not meaningfully challenge the IJ’s finding that she was not tortured in the past or that she could relocate to another part of Guatemala in her brief before the BIA, and the record does not otherwise compel the conclusion that she will more likely than not be tortured if she returns to Guatemala. *See Singh v. Whitaker*, 914 F.3d 654, 662–63 (9th Cir. 2019).

3. Tecun-De De Leon raises additional arguments in her petition that were not considered by the BIA. We decline to consider these issues. *See Santiago-Rodriguez v. Holder*, 657 F.3d 820, 829 (9th Cir. 2011) (“In reviewing the decision

² The BIA also correctly rejected Petitioner’s argument that the BIA’s definition of a particular social group no longer has judicial effect under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024). This court has previously adopted the BIA’s definition of a particular social group, *see, e.g., Andrade v. Garland*, 94 F.4th 904, 910 (9th Cir. 2024), and that precedent is not overruled by *Loper Bright*, *see Loper Bright*, 603 U.S. at 412 (“[W]e do not call into question prior cases that relied on the *Chevron* framework.”).

of the BIA, we consider only the grounds relied upon by that agency.” (internal quotation marks and citation omitted)).

PETITION DENIED.³

³ Tecun-De De Leon’s Motion to Stay Removal, Dkt. No. 2, is denied. The temporary stay of removal is lifted.