

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 23 2026

FOR THE NINTH CIRCUIT

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

ANA DELIA LUNA LUNA; V. L. G. L.,

Petitioners,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-4771

Agency Nos.

A245-844-708

A245-844-709

MEMORANDUM*

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

Submitted September 18, 2026**
Portland, Oregon

Before: W. FLETCHER, FRIEDLAND, and DE ALBA, Circuit Judges.

Ana Delia Luna Luna and her daughter (“Petitioners”) petition for review of a decision of the Board of Immigration Appeals (“BIA”). The BIA dismissed Petitioners’ due process claims and affirmed an order of an immigration judge (“IJ”) denying their applications for asylum, withholding of removal, and

* 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).

protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review “questions of law de novo and the agency’s factual findings for substantial evidence.” *Urquia-Yanez v. Blanche*, 176 F.4th 622, 626 (9th Cir. 2026) (internal quotations omitted). Under the substantial-evidence standard, the agency’s “findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary.” 8 U.S.C. § 1252(b)(4)(B).

On appeal, Petitioners filed an informal, handwritten opening brief that provided a cursory overview of the facts and asked our court to “[p]lease refer to the cases and statutes on [her] BIA brief” for the relevant legal reasoning. Ordinarily, we construe such pro se filings liberally. *Ren v. Holder*, 648 F.3d 1079, 1083 (9th Cir. 2011). But under Ninth Circuit Rule 28-1(b), “[p]arties must not append or incorporate by reference briefs submitted to the district court or agency or this Court in a prior appeal, or refer this Court to such briefs for the arguments on the merits of the appeal.” 9th Cir. R. 28-1(b). Petitioners have therefore forfeited their claims by failing to file a new brief addressing the BIA’s decision.

Even if Petitioners had properly presented their claims, the agency did not err by concluding that Petitioners are ineligible for asylum and withholding of removal. To be eligible for asylum, a petitioner must demonstrate a likelihood of

“persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1101(a)(42)(A). A petitioner may satisfy this burden “by showing past persecution, which gives rise to a rebuttable presumption of future persecution.” *Sharma v. Garland*, 9 F.4th 1052, 1060 (9th Cir. 2021). To be eligible for withholding of removal, Petitioners must satisfy a “more stringent burden of proof,” *Garcia v. Wilkinson*, 988 F.3d 1136, 1146 (9th Cir. 2021), by demonstrating that “it is more likely than not [that they] will be persecuted upon return,” *Aden v. Wilkinson*, 989 F.3d 1073, 1086 (9th Cir. 2021) (internal quotation marks and citation omitted).

Petitioners established neither past persecution nor a well-founded fear of future persecution. To establish past persecution, Petitioners must establish that “(1) [their] treatment rises to the level of persecution; (2) the persecution was on account of one or more protected grounds; and (3) the persecution was committed by the government, or by forces that the government was unable or unwilling to control.” *Baghdasaryan v. Holder*, 592 F.3d 1018, 1023 (9th Cir. 2010).

“Persecution is an extreme concept that does not include every sort of treatment our society regards as offensive.” *Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1028 (9th Cir. 2019) (internal quotation marks and citation omitted).

Petitioners were never physically harmed or personally threatened. Though “threats may be compelling evidence of past persecution,” *Flores Molina v. Garland*, 37 F.4th 626, 634 (9th Cir. 2022), “[w]e have been most likely to find persecution where threats are repeated, specific and combined with confrontation or other mistreatment.” *Duran-Rodriguez*, 918 F.3d at 1028 (internal quotations omitted). Here, both the threats and physical harm that Petitioners’ family members experienced appear to be sporadic, indiscriminate, and for the purpose of extortion, not because of a protected trait. *See Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1151 (9th Cir. 2010) (holding that “[a]sylum is not available to victims of indiscriminate violence, unless they are singled out on account of a protected ground.”). And “although harm to a petitioner’s close relatives, friends, or associates may contribute to a successful showing of past persecution,” it must be “part of a pattern of persecution closely tied to” the petitioners themselves. *Wakkary v. Holder*, 558 F.3d 1049, 1060 (9th Cir. 2009) (internal quotations omitted). The threatening conduct, kidnapping, and physical violence directed toward Petitioners’ family were the result of a dispute at a party, mistaken identity, and attempts at extortion, which are not closely tied to Petitioners themselves.

Because they cannot establish past persecution, Petitioners are not entitled to a presumption of a well-founded fear of future persecution and bear the burden of establishing a “subjectively genuine and objectively reasonable” fear of future

persecution. *Ghaly v. INS*, 58 F.3d 1425, 1428 (9th Cir. 1995); *see also* 8 C.F.R. § 1208.13(b)(1). “[T]he ongoing safety of family members in the petitioner’s native country undermines a reasonable fear of future persecution.” *Sharma*, 9 F.4th at 1066. Luna Luna’s family, including her parents and one of her brothers who was kidnapped for ransom, have remained at their ranch and have not been physically harmed since the kidnapping. In addition, several members of Petitioners’ family live in other cities in Mexico and have never experienced problems with the cartel. There was thus substantial evidence to conclude that Petitioners do not have an objectively reasonable well-founded fear of future persecution.

Because Petitioners failed to establish one of the three prongs necessary to be eligible for asylum, they “necessarily fail[ed] to satisfy the more stringent standard for withholding of removal.” *Silva v. Garland*, 993 F.3d 705, 719 (9th Cir. 2021) (citation omitted).

Substantial evidence also supports the agency’s determination that Petitioners are ineligible for CAT relief. “To be eligible for relief under CAT, an applicant bears the burden of establishing that [they] will more likely than not be tortured with the consent or acquiescence of a public official if removed to [their] native country.” *Xochihua-Jaimes v. Barr*, 962 F.3d 1175, 1183 (9th Cir. 2020). Given that Petitioners have failed to establish past persecution or a well-founded

fear of future persecution, they have not demonstrated that they will “more likely than not be tortured.” *Id.*

The temporary administrative stay is lifted, and Petitioners’ motion to stay removal (Dkt. No. 2) is denied.

PETITION DENIED.