

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 24 2026

FOR THE NINTH CIRCUIT

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

EVELIN LISETH PINZON-RODRIGUEZ;
JOSUE ISAI GRAGEDA RAMIREZ;
FATIMA ABIGAIL GRAGEDA PINZON,

Petitioners,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-75

Agency Nos.
A245-130-521
A245-130-522
A245-130-523

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.

Petitioners Josue Isai Grageda Ramirez, his wife Evelin Liseth Pinzon-Rodriguez, and their daughter, citizens of Guatemala, petition for review of a decision of the Board of Immigration Appeals (“BIA”) affirming 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’s (“IJ”) order denying their applications for asylum, 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 cites [*Matter of*] *Burbano* and also provides its own review of the evidence and law, we review both the IJ’s and the BIA’s decisions.” *Rudnitskyy v. Garland*, 82 F.4th 742, 746 (9th Cir. 2023) (quoting *Ali v. Holder*, 637 F.3d 1025, 1028 (9th Cir. 2011)). This court reviews “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) (citation modified). 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).

A

Petitioners did not establish a due process violation with respect to their hearing transcript. A due process violation occurs “where (1) the proceeding was so fundamentally unfair that the alien was prevented from reasonably presenting his case, and (2) the alien demonstrates prejudice, which means that the outcome of the proceeding may have been affected by the alleged violation.” *Vilchez v. Holder*, 682 F.3d 1195, 1199 (9th Cir. 2012) (citation modified). Petitioners argue that their due process rights were violated because “[t]he IJ never allowed Mr.

Grageda [Ramirez] to fully and completely testify.” But the hearing transcript indicates that the IJ merely clarified the level of detail expected from Grageda Ramirez’s testimony. Moreover, the IJ provided Grageda Ramirez with multiple opportunities to provide additional information on the record. Assessing the record as a whole, we conclude that Petitioners have failed to demonstrate that the proceeding “prevented [them] from reasonably presenting [their] case.” *See id.*

B

1. The agency did not err in concluding that Petitioners are ineligible for asylum and withholding of removal. To be eligible for asylum, the applicant must establish that “(1) his 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.” *Flores Molina v. Garland*, 37 F.4th 626, 633 (9th Cir. 2022) (citation omitted). 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) (citation modified).

Substantial evidence supports the agency’s determination that the threats Petitioners received did not rise to the level of persecution. “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) (citation modified). Although we have “repeatedly held that threats may be compelling evidence of past persecution,” *Flores Molina*, 37 F.4th at 634 (citation modified), “[u]nfulfilled threats are very rarely sufficient to rise to the level of persecution,” *Hussain v. Rosen*, 985 F.3d 634, 647 (9th Cir. 2021). Accordingly, we 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 (citation modified).

Petitioners sought to establish past persecution based on the threats Grageda Ramirez and his family received from gang members. In July 2023, Petitioners received three threats: 1) a threat from an incarcerated MS-13 leader, 2) an anonymous death threat from an incarcerated individual, 3) and an implied death threat from two motorcyclists. These threats were not “repeated” or “specific” enough to compel the conclusion that Petitioners suffered past persecution. *See, e.g., id.* at 1027–29 (holding that receiving two death threats from supposed hitmen was insufficient to establish past persecution).

“Absent evidence of past persecution, [Petitioners] must establish a well-founded fear of future persecution by showing both a subjective fear of future persecution, as well as an objectively reasonable possibility of persecution upon

return to the country in question.” *Id.* at 1029 (citation modified).

In addition to the threats described above, Petitioners base their claim of future persecution on three assertions. First, Petitioners note that their family members have seen supposed gang members surveilling Petitioners’ home in Guatemala. Second, Petitioners suggest that the deaths of five corrections officers in July 2023 indicate that Grageda Ramirez, who worked as a corrections officer, is likely to be killed upon return to Guatemala. Third, they contend that the country condition evidence indicates that gang members are killing corrections officers in Guatemala. None of these allegations is sufficient to establish an objectively reasonable possibility of future persecution.

First, neither Petitioners nor their remaining family in Guatemala have been threatened or even contacted by gang members since Petitioners arrived in the United States. *See, e.g., Sharma v. Garland*, 9 F.4th 1052, 1066 (9th Cir. 2021) (“The ongoing safety of family members in the petitioner’s native country undermines a reasonable fear of future persecution.”). Second, none of the officers who were killed worked with Grageda Ramirez or even held the same position. Nor is there evidence to suggest that the guards were killed for similar reasons that Grageda Ramirez was threatened. And finally, although the country condition evidence indicates that corrections officers experience increased gang violence, this evidence is not sufficient to compel the conclusion that Petitioners will suffer

gang violence upon return to Guatemala, especially given that Grageda Ramirez is no longer a corrections officer.

Because demonstrating a likelihood of persecution is necessary to be eligible for asylum, *see Sharma*, 9 F.4th at 1059, we need not reach Petitioners' other challenges to the IJ's denial of their claims. And because Petitioners failed to establish a sufficient likelihood of persecution to be eligible for asylum, they "necessarily fail[] to satisfy the more stringent standard for withholding of removal." *Silva v. Garland*, 993 F.3d 705, 719 (9th Cir. 2021) (citation modified).

2. The agency also did not err in concluding that Petitioners are ineligible for relief under CAT, which requires "establishing that [Petitioners] 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 fear of future persecution, they have failed to demonstrate that they will "more likely than not be tortured." *Id.* Additionally, Petitioners have not provided any evidence indicating that any alleged harm would be conducted "with the consent or acquiescence of a public official." *Id.*

The motion to stay removal (Dkt. No. 10) and the supplemental motion to stay removal (Dkt. No. 14) are denied.

PETITION DENIED.