**NOT FOR PUBLICATION**

FILED

OCT 27 2026

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| ANDREA LUCRECIA ECHEVERRIA LOPEZ DE AVILA; BRANDON ARNOLDO AVILA VASQUEZ; M. J. A. E.; Y. J. A. E.,<br><br>Petitioners,<br><br>v.<br><br>TODD BLANCHE, Attorney General,<br><br>Respondent. | No. 26-41<br><br>Agency Nos.<br>A241-503-967<br>A241-503-966<br>A241-503-968<br>A241-503-969<br><br>MEMORANDUM[*] |

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

Submitted October 23, 2026[**]
Pasadena, California

Before: BUMATAY, VANDYKE, and MENDOZA, JR., Circuit Judges.

Andrea Echeverria Lopez de Avila, her husband, and her children (collectively "Petitioners"), natives and citizens of Guatemala, seek review of the Board of Immigration Appeals' ("BIA") affirmance of the immigration judge's

[*] 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).

("IJ") denial of their asylum, withholding of removal, and Convention Against Torture ("CAT") claims. We have jurisdiction under 8 U.S.C. § 1252, and deny the petition.

"We review for substantial evidence factual findings underlying the BIA's determination that a petitioner is not eligible for asylum, withholding of removal, or CAT relief." *Plancarte Sauceda v. Garland*, 23 F.4th 824, 831 (9th Cir. 2022). To overcome the substantial evidence standard, the petitioner must "show[] that the evidence *compels* the conclusion that the BIA's decision was incorrect." *Sharma v. Garland*, 9 F.4th 1052, 1060 (9th Cir. 2021) (simplified). "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) (simplified).

1. Substantial evidence supports the denial of asylum and withholding of removal. "An applicant alleging past persecution has the burden of establishing 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." *Baghdasaryan v. Holder*, 592 F.3d 1018, 1023 (9th Cir. 2010). Here, the BIA held that Petitioners failed to meaningfully challenge the IJ's finding that they haven't shown that Guatemalan government is unable or unwilling to protect them.

Petitioners challenge the BIA's waiver ruling claiming that their brief before the BIA alleged that lead petitioner "suffered persecution." But this broad statement is not sufficient to put the BIA on notice that they were challenging the unable-and-unwilling finding to establish past persecution. *See Segura v. Holder*, 605 F.3d 1063, 1066 (9th Cir. 2010) (holding that "broad statements" in BIA briefing were "[not] sufficient to put the BIA on notice of [petitioner's] claim"); *Gonzalez-Lara v. Garland*, 104 F.4th 1109, 1116–17 (9th Cir. 2024) ("[A] general challenge to the IJ's decision does not satisfy 8 U.S.C. § 1252(d)(1)'s exhaustion requirement . . . ."). Petitioners thus failed to exhaust this argument before the BIA, and we do not reach it. *See Umana-Escobar v. Garland*, 69 F.4th 544, 550 (9th Cir. 2023). Because Petitioners didn't show past persecution, their argument that they were entitled to a presumption of future persecution fails. *See Molina-Estrada v. I.N.S.*, 293 F.3d 1089, 1096 (9th Cir. 2002) ("When, as here, a petitioner has *not* established past persecution, there is no presumption to overcome."). In any event, Petitioners do not meaningfully raise future persecution on appeal, so we also decline to reach it.

2. Substantial evidence also supports the denial of Petitioners' CAT claim. "To qualify for CAT relief, an applicant must establish that it is more likely than not that he or she would be tortured if removed to the proposed country of removal." *Salguero Sosa v. Garland*, 55 F.4th 1213, 1221 (9th Cir. 2022) (simplified). "Evidence that the applicant could relocate to a part of the country of removal where

he or she is not likely to be tortured" weighs against a CAT claim. 8 C.F.R. § 1208.16(c)(3)(ii).

Petitioners argue that they are likely to be tortured in Guatemala at the hands of government agents or at the government's acquiescence. The IJ found that Petitioners failed to connect the threats received to the Guatemalan government either by consent or acquiescence as they "do not know who these men are." The BIA also concluded that Petitioners did not meaningfully challenge the IJ's determination that lead petitioner could internally relocate within Guatemala to avoid future harm as her mother and sister have done. *See Aguilar Fermin v. Barr*, 958 F.3d 887, 893 (9th Cir. 2020). Petitioners also challenge efficacy of the government's efforts to combat violence, but that is unavailing. *See Garcia-Milian v. Holder*, 755 F.3d 1026, 1034 (9th Cir. 2014) ("Evidence that the police were aware of a particular crime, but failed to bring the perpetrators to justice, is not in itself sufficient to establish acquiescence in the crime."). The record thus does not compel reversing the BIA's CAT determination.

**PETITION DENIED.**[1]

[1] Petitioners' Motion to Stay Removal (Dkt. 3) is denied.