NOT FOR PUBLICATION

FILED

OCT 30 2026

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ERIK HERNANDEZ FLORES, Petitioner, v. TODD BLANCHE, Attorney General, Respondent.	No. 26-768 Agency No. A215-952-722 MEMORANDUM[*]

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

Submitted October 28, 2026[**]
Phoenix, Arizona

Before: GRABER, HURWITZ, and BADE, Circuit Judges.

Erik Hernandez-Flores, a native and citizen of Mexico, petitions for review of a Board of Immigration Appeals (BIA) decision affirming an order by an Immigration Judge (IJ) denying asylum and withholding of removal.[1] We have

[*] 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).

[1] Hernandez-Flores does not challenge the IJ's denial of protection under the Convention Against Torture.

jurisdiction under 8 U.S.C. § 1252, and we deny the petition.

1. Substantial evidence supports the agency's determinations that Hernandez-Flores's application for asylum was untimely and he did not establish extraordinary or changed circumstances to excuse the delay. *See* 8 U.S.C. § 1158(a)(2)(B), (D) (providing that asylum applications must be filed within one year of entering the United States and defining exceptions to that requirement); *Ruiz v. Bondi*, 163 F.4th 586, 599 (9th Cir. 2025) (holding that we have jurisdiction to review the agency's "extraordinary circumstances" determination for substantial evidence).[2]

An applicant's lack of knowledge of the filing deadline is not an extraordinary circumstance. *Alquijay v. Garland*, 40 F.4th 1099, 1103–04 (9th Cir. 2022). Moreover, the record supports the agency's conclusion that Hernandez-Flores was aware that he could file for asylum when he arrived in the United States.

Substantial evidence supports the agency's determination that the gang's killing of two of Hernandez-Flores's cousins and its confrontation with his father did not establish changed circumstances. Contrary to Hernandez-Flores's

[2] Our reasoning in *Ruiz* also applies to our jurisdiction to review the agency's "changed circumstances" determination. *See Husyev v. Mukasey*, 528 F.3d 1172, 1178, 1180 (9th Cir. 2008) (describing the "changed circumstances" and "extraordinary circumstances" determinations as "parallel issue[s]"), *abrogated on other grounds by Ruiz*, 163 F.4th at 593, 598.

contention, those incidents did not create a "new fear of persecution in Mexico that did not previously exist." Rather, Hernandez-Flores stated that, before he left Mexico, he feared harm by the gang because they tried to recruit him, threatened him, and tracked him after he moved within Mexico. *See Budiono v. Lynch*, 837 F.3d 1042, 1047 (9th Cir. 2016) (holding that "[n]ew evidence confirming what [the petitioner] already knew . . . does not constitute changed circumstances" excusing a late asylum application).

2. Substantial evidence supports the agency's determination that Hernandez-Flores was ineligible for withholding of removal because he failed to establish a nexus between a protected ground and the persecution that he fears. *See Umana-Escobar v. Garland*, 69 F.4th 544, 551 (9th Cir. 2023) (defining the nexus requirement); *Santos-Ponce v. Wilkinson*, 987 F.3d 886, 890 (9th Cir. 2021) (reviewing the agency's nexus determination for substantial evidence).

Hernandez-Flores proposes two particular social groups (PSGs): (1) "Hernandez Flores family members who refuse to comply with the demands of their persecutors and who openly oppose criminal organizations" and (2) "landowners who[se] lands are drilled illegally for gasoline." Even assuming that these PSGs are cognizable, substantial evidence supports the agency's determination that the gang's motive was related to its criminal enterprise, not a protected ground *See Zetino v. Holder*, 622 F.3d 1007, 1016 (9th Cir. 2010) ("An

alien's desire to be free from harassment by criminals motivated by theft or random violence by gang members bears no nexus to a protected ground."). Hernandez-Flores testified that a gang targeted him for recruitment because he worked where the men were getting petroleum and he "knew the terrain." He also testified that the gang continued to look for him "[b]ecause they still want[ed] to recruit" him. Additionally, Hernandez-Flores testified that the gang targeted his father, the only identified landowner, because they wanted to recruit Hernandez-Flores.

3. Finally, Hernandez-Flores asserts that the IJ violated his due process rights by denying withholding of removal despite his credible testimony and documentary evidence. This claim fails because his argument in essence challenges the IJ's findings of fact and because he has not shown any prejudicial error. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) ("To prevail on a due process challenge to deportation proceedings, [a petitioner] must show error and substantial prejudice.").

PETITION DENIED.[3]

[3] The opposed motion for stay of removal is denied. The temporary stay of removal entered pursuant to General Order 6.4(c) is lifted, effective immediately.