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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MOHAMED BOUROUBA, Petitioner, v. TODD BLANCHE, Attorney General, Respondent.	No. 20-71325 Agency No. A215-548-202 MEMORANDUM*

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

Submitted October 29, 2026**
Pasadena, California

Before: PAEZ, OWENS, and SANCHEZ, Circuit Judges.

Mohamed Bourouba, a native and citizen of Morocco, petitions for review of the Board of Immigration Appeals' ("BIA") dismissal of his appeal of an Immigration Judge's ("IJ") denial of his application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). Where,

* 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).

as here, the BIA incorporates the IJ's findings by citing *Matter of Burbano*, 20 I. & N. Dec. 872 (B.I.A. 1994), and adds its own reasoning, we review both decisions. *Ali v. Holder*, 637 F.3d 1025, 1028 (9th Cir. 2011). We review the agency's denials of asylum, withholding of removal, and CAT relief under the substantial evidence standard. *Garcia-Milian v. Holder*, 755 F.3d 1026, 1031 (9th Cir. 2014). Under this standard, the agency's factual findings "are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary." 8 U.S.C. § 1252(b)(4)(B). We review due process claims de novo. *Liu v. Holder*, 640 F.3d 918, 930 (9th Cir. 2011). As the parties are familiar with the facts, we do not recount them here. We have jurisdiction under 8 U.S.C. § 1252(a)(1) and deny the petition.

1. "To be eligible for asylum, a petitioner has the burden to 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.'" *Sharma v. Garland*, 9 F.4th 1052, 1059 (9th Cir. 2021) (quoting 8 U.S.C. § 1101(a)(42)(A)). "To be eligible for withholding of removal, the petitioner must discharge this burden by a 'clear probability.'" *Id.* (citation omitted). A particular social group must be socially distinct, particularly defined, and composed of people with "a common immutable characteristic." *Akosung v. Barr*, 970 F.3d 1095, 1103 (9th Cir. 2020) (quoting *Matter of M-E-V-G-*, 26 I. &

N. Dec. 227, 237 (B.I.A. 2014)). Here, the agency concluded that Bourouba's proposed particular social group of "Moroccan men who have suffered numerous attempts of murder by mafia gangs" is not socially distinct. Bourouba waived this issue by failing to "specifically and distinctly" argue it in his opening brief. *Hernandez v. Garland*, 47 F.4th 908, 916 (9th Cir. 2022) (citation omitted). Because this issue is dispositive of Bourouba's asylum and withholding of removal claims, we deny the petition as to those claims.[1]

2. To qualify for CAT relief, an applicant must show that they are more likely than not to be tortured if they are removed to the proposed country of removal and that the torture would be "inflicted by, . . . or with the consent or acquiescence of, a public official acting in an official capacity." 8 C.F.R. §§ 1208.16(c)(2), 1208.18(a)(1). Substantial evidence supports the agency's finding that Bourouba did not establish the Moroccan government's participation in or acquiescence to the gang's violence and threats. The record reflects that, rather than enabling the gang's criminal activities, the Moroccan police investigated Bourouba's report and identified the man who defrauded him. Furthermore, Bourouba's own evidence shows that the Moroccan government has cracked down on human trafficking gangs similar to the one that victimized him.

[1] Bourouba has also waived review of the agency's dispositive finding that he failed to establish a nexus between membership in a particular social group and the harm he suffered. *Hernandez*, 47 F.4th at 916.

The agency's finding that there is no evidence of gross, flagrant, or mass human rights violations in Morocco is also supported by substantial evidence. Bourouba argues that accounts of alleged human rights violations committed by Moroccan security forces and government corruption mean he is likely to be tortured if returned to Morocco. But Bourouba fears violence from the gang, not the security forces, and whatever corruption exists has not stopped the police from investigating gangs. Therefore, the record does not compel the conclusion that Bourouba is more likely than not to be tortured by, or with the consent or acquiescence of, a public official if returned to Morocco.

3. Non-citizens must be afforded due process in immigration proceedings, including being provided competent interpretation services if they do not speak English. *He v. Ashcroft*, 328 F.3d 593, 598 (9th Cir. 2003). We will reverse the BIA on due process grounds when an error rendered the proceedings "so fundamentally unfair that the [non-citizen] was prevented from reasonably presenting his case." *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (citation omitted). The non-citizen bears the burden of establishing prejudice. *See Hartooni v. INS*, 21 F.3d 336, 340 (9th Cir. 1994) (holding that there was no due process violation when there was "no evidence . . . of any specific *instance* where the interpreter is alleged to have erred").

Bourouba's claim that he received incompetent interpretation services falls

short. While the agency conceded that there were interpretation issues at an early interview with Customs and Border Patrol, those problems had no impact on the fairness of Bourouba's proceedings because the IJ did not consider the interview notes when reaching his decision. *See Guan v. Barr*, 925 F.3d 1022, 1033 (9th Cir. 2019) (holding that there was no due process violation when the agency did not rely on testimony that was affected by interpretation errors). At hearings on July 9 and August 20, 2018, the interpreter spoke classical Arabic, not Bourouba's Moroccan dialect. After Bourouba expressed confusion early in both hearings, the IJ instructed him to speak up if he was struggling to understand the proceedings; Bourouba never did. Indeed, at the end of the merits hearing on August 20, Bourouba confirmed that he understood the classical Arabic interpreter when asked directly by his attorney. Bourouba has not pointed to any specific miscommunications or attempted to explain how the alleged errors affected the fairness or outcome of his proceedings. Thus, he has failed to show a due process violation.

PETITION DENIED.