

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

May 21, 2013

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 12-60525

Summary Calendar  
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ALFONSO CANO-LOPEZ,

Petitioner

v.

ERIC H. HOLDER, JR., U. S. ATTORNEY GENERAL,

Respondent

\_\_\_\_\_  
Petition for Review of an Order of the  
Board of Immigration Appeals  
BIA No. A079 188 273  
\_\_\_\_\_

Before HIGGINBOTHAM, OWEN, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Alfonso Cano-Lopez, a native and citizen of Mexico, petitions for review of the order of the Board of Immigration Appeals (BIA) denying his application for asylum, withholding of removal, and relief under the Convention Against Torture (CAT). He contends that the BIA failed to consider all of the evidence when finding that he had not demonstrated exceptional circumstances or changed circumstances in Mexico that would justify tolling the one-year limitations period governing asylum applications; that he is a member of a

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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particular social group for purposes of withholding of removal; that he has established a well-founded fear of future persecution if he is returned to Mexico; and that the BIA erred by finding that he did not raise a CAT claim.

We lack jurisdiction to review the factual finding that Cano-Lopez failed to show exceptional circumstances or changed circumstances in Mexico. *See Zhu v. Gonzales*, 493 F.3d 588, 594-95 (5th Cir. 2007). We need not determine whether Cano-Lopez's proposed group, i.e., former Mexican police officers who work as informants for the U.S. Drug Enforcement Administration, qualifies as a particular social group because Cano-Lopez failed to exhaust a component of the IJ's finding that he failed to show a well-founded fear of persecution, i.e., whether he could relocate internally within Mexico. We lack jurisdiction to address that issue. *See Wang v. Ashcroft*, 260 F.3d 448, 452 (5th Cir. 2001). The BIA erred by finding that Cano-Lopez failed to raise a CAT claim. *See Eduard v. Ashcroft*, 379 F.3d 182, 195-96 (5th Cir. 2004). However, in light of the finding that Cano-Lopez could not show a well-founded fear of persecution, this error is harmless. *See Hasan v. Ashcroft*, 380 F.3d 1114, 1123 (9th Cir. 2004) (discussing 8 C.F.R. § 208.16(c)(3)(ii)); *see also Enriquez-Gutierrez v. Holder*, 612 F.3d 400, 407 (5th Cir. 2010); *Cantu-Delgadillo v. Holder*, 584 F.3d 682, 690 (5th Cir. 2009). PETITION DENIED IN PART AND DISMISSED IN PART.