

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

May 17, 2022

Lyle W. Cayce
Clerk

No. 20-60999

SILVANO SANCHEZ-FELIPE,

Petitioner,

versus

MERRICK GARLAND, *U.S. Attorney General,*

Respondent.

Petition for Review of the Order of the
Board of Immigration Appeals
BIA No. A206 238 144

Before HAYNES, WILLETT, and HO, *Circuit Judges.*

PER CURIAM:*

Silvano Sanchez-Felipe, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeal's (BIA) decision affirming the denial of his applications for asylum, withholding of removal, and protection under the Convention Against Torture (CAT).

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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In reviewing the BIA’s decision, we will consider the immigration judge’s (IJ) underlying decision only if it impacted the BIA’s decision, as it did here. *See Sharma v. Holder*, 729 F.3d 407, 411 (5th Cir. 2013). We review the IJ’s findings of fact “that an applicant is not eligible for asylum, withholding of removal, [or] relief under [CAT]” for substantial evidence. *Chen v. Gonzales*, 470 F.3d 1131, 1134 (5th Cir. 2006) (citations omitted). Under the substantial evidence standard, we may not reverse a factual finding unless the evidence “compels” such a reversal—i.e., the evidence must be “so compelling that no reasonable factfinder could reach a contrary conclusion.” *Id.* We review de novo conclusions of law, *Sharma*, 729 F.3d at 411, and whether we have subject-matter jurisdiction over an issue, *Garcia-Melendez v. Ashcroft*, 351 F.3d 657, 660 (5th Cir. 2003).

We cannot grant Sanchez-Felipe the relief he seeks. We lack the jurisdiction to review the IJ’s determination that Sanchez-Felipe failed to establish an exception to the one-year filing deadline for filing his asylum application. *See Zhu v. Gonzales*, 493 F.3d 588, 594–95 (5th Cir. 2007) (holding that determinations of timeliness based on findings of fact are not reviewable). Substantial evidence supports the BIA’s finding that Sanchez-Felipe is not entitled to withholding of removal because his particular social group of “victims of crime in Mexico” does not exist independently of the persecution, making it not cognizable. *See Gonzales-Veliz v. Barr*, 938 F.3d 219, 229 (5th Cir. 2019). Finally, Sanchez-Felipe has not put forth evidence that would *compel* us to find, under CAT, that “if removed to [Mexico], it is more likely than not he would be tortured by, or with the acquiescence of, government officials acting under the color of law.” *See Hakim v. Holder*, 628 F.3d 151, 155 (5th Cir. 2010).

Accordingly, Sanchez-Felipe’s petition for review is DISMISSED in part and DENIED in part.