

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

January 12, 2022

Lyle W. Cayce
Clerk

No. 19-60106
Summary Calendar

DELMY DEL CARMEN ROMERO-DE RODRIGUEZ; JUDITH
YAMILETH RODRIGUEZ-ROMERO; ASHLY NAHOLY RODRIGUEZ-
ROMERO; RAMON ANTONIO GUERRO-ROMERO,

Petitioners,

versus

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

Respondent.

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

BIA No. A208 991 634

BIA No. A208 991 635

BIA No. A208 991 636

BIA No. A208 991 759

Before HIGGINBOTHAM, HIGGINSON, and DUNCAN, *Circuit Judges*.

PER CURIAM:*

Delmy Del Carmen Romero-De Rodriguez and her three children— Judith Yamileth Rodriguez-Romero, Ashley Naholy Rodriguez-Romero, and Ramon Antonio Guerra-Romero —are natives and citizens of El Salvador. After removal proceedings were instituted, Romero-De Rodriguez filed an application on behalf of herself and her children, seeking asylum, withholding of removal, and protection under the Convention Against Torture (CAT). The application sought relief based on membership in a particular social group defined as immediate family members of her brother, who was murdered by gang members. An immigration judge (IJ) denied relief and the Board of Immigration Appeals (BIA) dismissed the ensuing appeal. Romero-De Rodriguez and her children now petition this court to review.

We review factual findings for substantial evidence and questions of law de novo. *Lopez-Gomez v. Ashcroft*, 263 F.3d 442, 444 (5th Cir. 2001). As a result, we “may not overturn the BIA’s factual findings unless the evidence compels a contrary conclusion.” *Gomez-Palacios v. Holder*, 560 F.3d 354, 358 (5th Cir. 2009). Because the BIA’s decision in this case affirmed and relied on that of the IJ, we consider both decisions. *See Wang v. Holder*, 569 F.3d 531, 536 (5th Cir. 2009).

Substantial evidence supports the IJ’s determination that Romero-De Rodriguez was threatened because she interfered with the gang’s ability to recruit members. *See Thuri v. Ashcroft*, 380 F.3d 788, 792-93 (5th Cir. 2004) (holding that that conduct driven by purely personal or criminal motives do not constitute persecution on account of a protected ground). Without the

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 19-60106

required nexus, the asylum and withholding of removal claims fail. *See Orellana-Monson v. Holder*, 685 F.3d 511, 518 (2012).

Also, Romero-De Rodriguez and her children have not put forth evidence of a Salvadoran public official's acquiescence or willful blindness to torture that is "so compelling that no reasonable factfinder could conclude against it." *Wang*, 569 F.3d at 537. Although it is unfortunate that the police did not respond to calls when she was threatened by the gang or noticed gang members surveilling her, "neither the failure to apprehend the persons threatening the alien, nor the lack of financial resources to eradicate the threat or risk of torture constitute sufficient state action for purposes" of the CAT. *See Tamara-Gomez v. Gonzales*, 447 F.3d 343, 351 (5th Cir. 2006). Thus, the CAT claims also fail. *See* 8 C.F.R. § 1208.16(c)(2); *Hakim v. Holder*, 628 F.3d 151, 155 (5th Cir. 2010).

Accordingly, the petition for review is DENIED.