

United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 10, 2026

Lyle W. Cayce
Clerk

No. 26-60064
Summary Calendar

KIMBERLY PEREZ-HERNANDEZ; ABNER SAUL PEREZ-
HERNANDEZ,

Petitioners,

versus

TODD WALLACE BLANCHE, *U.S. Attorney General,*

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
Agency Nos. A201 519 065,
A201 519 066

Before BARKSDALE, WILLETT, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Kimberly Perez-Hernandez and her minor son, Abner Saul Perez-Hernandez, natives and citizens of Guatemala, petition for review of the Board of Immigration Appeals' (BIA) dismissing her appeal from the Immigration Judge's (IJ) denying her application for asylum, withholding of

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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removal, and protection under the Convention Against Torture (CAT). (Perez' son is a derivative beneficiary of her asylum claim. *See* 8 U.S.C. § 1158(b)(3)(A) (providing child of alien granted asylum may be granted same status)).

Our court reviews the BIA's decision and considers the IJ's decision only to the extent it influenced the BIA. *Orellana-Monson v. Holder*, 685 F.3d 511, 517 (5th Cir. 2012). For Perez' asylum claim on persecution grounds, we "review the entirety of the [BIA]'s conclusions—both the underlying factual findings and the application of the [law] to those findings—for substantial evidence". *Urias-Orellana v. Bondi*, 607 U.S. 537, 545 (2026). Regarding her eligibility for withholding of removal and relief under CAT, the BIA's factual findings are reviewed for substantial evidence; its legal conclusions *de novo*. *E.g.*, *Chen v. Gonzales*, 470 F.3d 1131, 1134 (5th Cir. 2006). Under both standards of review, our court will not disturb the BIA's decision unless the evidence "*compel[s]*" a contrary conclusion. *Urias-Orellana*, 607 U.S. at 545 (citation omitted) (emphasis added); *Revenu v. Sessions*, 895 F.3d 396, 401 (5th Cir. 2018).

For the following two reasons, Perez fails to show the BIA erred in denying her claims for asylum and withholding of removal. First, she contends the BIA erred in failing to remand to the IJ for consideration of her particular social groups (PSGs) presented for the first time on appeal. The BIA need not consider nor remand to the IJ when she failed to present these PSGs until then. *See Jaco v. Garland*, 24 F.4th 395, 401–02 (5th Cir. 2021) (no abuse of discretion when BIA declined to consider or remand for consideration of PSGs first raised on appeal).

Second, Perez contends the BIA was required to consider her PSGs *before* affirming the lack-of-nexus ruling. She confuses cognizability of her proposed PSGs with the nexus analysis. Our court has upheld a no-nexus

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ruling where, as in this instance, the BIA did not analyze whether a proposed PSG was cognizable “*before* making its nexus determination”. *Vazquez-Guerra v. Garland*, 7 F.4th 265, 268 (5th Cir. 2021) (emphasis added); *see also Molina-Baires v. Bondi*, No. 25-60183, 2026 WL 373323, at *1 (5th Cir. Feb. 10, 2026) (“Because the nexus determination is dispositive of her asylum and withholding claims, we need not consider her arguments concerning persecution and the viability of her proposed PSGs.”). Because Perez fails to address this dispositive determination of no nexus, she has forfeited our review of the issue. *See Lopez-Perez v. Garland*, 35 F.4th 953, 957 n.1 (5th Cir. 2022) (failing to brief contention on appeal forfeits issue).

For her CAT claim, Perez contends the BIA erred in concluding she was not entitled to CAT protection because she failed to show, *inter alia*, she would more likely than not be tortured if she returned to Guatemala. Perez’ contending she cannot safely relocate because her stepfather (whom she claims raped her repeatedly when she was 13, resulting in her having her son) told her he would find and harm her no matter where she went in Guatemala does not properly account for the nine years she lived without harm in a different Guatemalan city nor does it explain why relocation could not protect her again. Further, she fails to adequately address the BIA’s finding that, as an adult, she is no longer vulnerable to her stepfather’s abuse and accordingly is not likely to be tortured by him. Therefore, Perez fails to show the evidence *compels* our concluding she more likely than not will be tortured if repatriated to Guatemala. *See Zhang v. Gonzales*, 432 F.3d 339, 344–45 (5th Cir. 2005) (requiring applicant show torture is more likely than not). Because substantial evidence supports the BIA’s denying CAT relief, it is not necessary to address her contentions regarding past torture and governmental acquiescence. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976)

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(“As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.”).

DENIED.

Judge Douglas concurs only in the judgment.