UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-2955

PABLO RICARDO GUIMARAES; VIVIANE PEREIRA NASCIMENTO GUIMARAES;
P. R. G. F.; M. E. N. G.,
PETITIONERS

v.

ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA

On Petition for Review of an Order of the BIA
Immigration Judge Shana W. Chen, Nos. A216-986-452, A216-986-453,
A216-986-454 & A216-986-455

Before: RESTREPO, MONTGOMERY-REEVES, AND MCKEE, *Circuit Judges*
Submitted: Sept. 10, 2026; Filed: Nov. 25, 2026

NONPRECEDENTIAL OPINION*

MCKEE, *Circuit Judge*.

Lead Petitioner Pablo Ricardo Guimaraes and his wife and two minor children seek review of the Board of Immigration Appeals' order denying Guimaraes's application for asylum,[1] withholding of removal under the Immigration and Nationality Act,[2] and protection under the Convention Against Torture.[3] The Immigration Judge concluded that although the harm Guimaraes experienced rose to the level of past persecution, he failed to establish eligibility for asylum, withholding of removal, or protection under the CAT. The

*This is not an opinion of the full Court and, under 3d Cir. IOP 5.7, is not binding precedent.
[1] 8 U.S.C. § 1158(a)(1).
[2] *Id.* § 1231(b)(3)(A).
[3] 8 C.F.R. § 1208.16(c).

BIA affirmed the IJ's conclusions. For the following reasons, we will deny the petition for review.[4]

I.

In reviewing removal orders, we review factual determinations for substantial evidence and legal determinations de novo.[5] Factual findings may not be set aside "unless any reasonable adjudicator would be compelled to conclude to the contrary."[6] We primarily review the BIA's opinion, but we also review the IJ's opinion "to the extent it is adopted, affirmed, or substantially relied upon by the BIA."[7]

A. Asylum

To be granted asylum, one must prove that s/he is a "refugee" as defined in the INA. The INA defines a refugee as one who (1) is being persecuted based on his or her "race, religion, nationality, membership in a particular social group, or political opinion," and (2) can establish past persecution or a well-founded fear of future persecution if returned to his or her country of nationality.[8]

The IJ found that Guimaraes demonstrated that he was subject to past persecution based on an attack in 2007 in which members of a criminal organization known as the "PCC" shot Guimaraes three times. Despite this finding, the BIA correctly concluded that

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[4] We have jurisdiction to review final orders of removal under 8 U.S.C. § 1252(a). Noncitizens petition for review "with the court of appeals for the judicial circuit in which the immigration judge completed the proceedings." 8 U.S.C. § 1252(b)(2).
[5] *Tipan Lopez v. Att'y Gen.*, 142 F.4th 162, 170 (3d Cir. 2025).
[6] 8 U.S.C. § 1252(b)(4)(B).
[7] *Guzman Orellana v. Att'y Gen.*, 956 F.3d 171, 177 (3d Cir. 2020).
[8] 8 U.S.C. § 1101(a)(42)(A).

Guimaraes did not establish that his persecution was based on his membership in a particular social group ("PSG"). To be legally cognizable, a PSG must be "(1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question."[9] On appeal, Guimaraes contends that he was persecuted based on his membership in the following PSG: "Brazilian citizens whose family member(s) is or are related to organized crime."[10]

The BIA correctly concluded that the proposed PSG, which does not define the scope of "family member(s)" or "related to organized crime," is amorphous. It is also not clear that its members would be recognized as an identifiable group in society. Furthermore, even if Guimaraes had established his proposed PSG, we agree he failed to establish a nexus between his membership in it and any persecution.[11]

B. Withholding of Removal

To be eligible for withholding of removal, an applicant must show a clear probability that s/he would "more likely than not" face persecution because of his or her race, religion, nationality, membership in a particular social group, or political opinion.[12] Because this

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[9] *S.E.R.L. v. Att'y Gen.*, 894 F.3d 535, 540 (3d Cir. 2018) (quoting *Matter of M-E-V-G-*, 26 I. & N. Dec. 227, 237 (B.I.A. 2014)).
[10] AR 4; Opening Br. 12, 28 (emphasis omitted).
[11] Because we agree that Guimaraes did not set forth a legally cognizable PSG, we do not reach Guimaraes's argument that the confusion generated by *Matter of S-S-F-M-*, 29 I. & N. Dec. 207 (A.G. 2025) warrants remand. In any event, Guimaraes's argument that his case should be remanded and redecided under *Matter of M-E-V-G*, 26 I. & N. Dec. 227 (B.I.A. 2014) overlooks the fact that the BIA expressly relied on *Matter of M-E-V-G-* to find that his proposed PSG was not cognizable.
[12] *I.N.S. v. Cardoza-Fonseca*, 480 U.S. 421, 430 (1987); *Gomez-Zuluaga v. Att'y Gen.*, 527 F.3d 330, 348 (3d Cir. 2008).

standard is more rigorous than the "well-founded fear" standard for asylum eligibility, an applicant who cannot satisfy the asylum standard "will necessarily be unable to meet the standard for withholding of removal."[13] Accordingly, the BIA was correct in affirming the IJ's denial of withholding of removal.

C. CAT Protection

To be eligible for protection under the CAT, a claimant must establish that (1) s/he would "more likely than not" be tortured if returned to the proposed country of removal, and (2) the government would acquiesce to the alleged torture.[14]

The IJ correctly found that Guimares did not establish a clear probability of torture in Brazil based on the 2007 shooting and a threat he received from the PCC in 2016. Furthermore, Guimaraes failed to demonstrate that the Brazilian government would acquiesce to any future torture he might face.

II.

For the foregoing reasons, we will DENY the petition for review.

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[13] *Gomez-Zuluaga*, 527 F.3d at 348–49.
[14] *Saban-Cach v. Att'y Gen.*, 58 F.4th 716, 733 (3d Cir. 2023); *Myrie v. Att'y Gen.*, 855 F.3d 509, 515–16 (3d Cir. 2017).