

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 26-1341

BINIAM MUSSA NAHOM,
Petitioner

v.

ATTORNEY GENERAL UNITED STATES OF AMERICA

On Petition for Review of an Order of the
Board of Immigration Appeals
(Agency No. A212-874-286)
Immigration Judge: Michael Neal

Submitted Pursuant to Third Circuit LAR 34.1(a)
September 15, 2026

Before: CHAGARES, *Chief Judge*, HARDIMAN and FREEMAN, *Circuit Judges*

(Opinion filed: September 18, 2026)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to 3d Cir. I.O.P. 5.7 does not constitute binding precedent.

Biniam Mussa Nahom, proceeding pro se, petitions for review of the Board of Immigration Appeals’ (“BIA” or “the Board”) decision dismissing his appeal. For the foregoing reasons, we will deny the petition.

Nahom was born to Sudanese parents in Ethiopia. His parents had fled to Ethiopia before he was born. Nahom and his parents, Christians and members of the minority Uduk ethnic group, repatriated to Sudan in 2005. He remained in Sudan until 2010 when he and his mother relocated to a refugee camp in Ethiopia to flee violence in Sudan. Nahom’s brother remained in Sudan, where he was conscripted into the Sudanese army and killed for refusing to fight in the ongoing civil war. Nahom entered the United States with his family as a refugee in 2017 and obtained lawful permanent resident status.

Between 2021 and 2024, Nahom was convicted of a variety of crimes, including indecent assault of a person less than 13 years of age, violative of 18 Pa. Cons. Stat. Ann. § 3126(a)(7). Following this conviction, Nahom was placed in removal proceedings, for, inter alia, having been convicted of an aggravated felony, *see* 8 U.S.C. § 1182(a)(2)(A)(iii), prompting his filing of applications for relief.

In 2025, an Immigration Judge (“IJ”) sustained the charges of removability, denied Nahom’s application for deferral of removal under the Convention Against

Torture (“CAT”)¹ for failing to establish a likelihood of torture upon his removal, and ordered his removal to Ethiopia or, in the alternative, Sudan. Nahom timely appealed the CAT denial to the BIA, which in turn denied his appeal. This petition for review followed.

We have jurisdiction under 8 U.S.C. § 1252(a)(1). Where, as here, the Board invokes the IJ’s analysis and fact-finding in support of its conclusions, we review both decisions. *Uddin v. Att’y Gen.*, 870 F.3d 282, 289 (3d Cir. 2017). We review the agency’s findings of fact for substantial evidence, meaning the factual findings “are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary.” *Nasrallah v. Barr*, 590 U.S. 573, 584 (2020) (quotation marks and citation omitted).

To obtain relief, Nahom needed to establish that, if he were removed to Sudan, it is more likely than not that he would be tortured. *See* 8 C.F.R. § 1208.16(c)(2); *Sevoian v. Ashcroft*, 290 F.3d 166, 174–75 (3d Cir. 2002). The torture must be “inflicted by, or at the instigation of, or with the consent or acquiescence of, a public official . . . or other person acting in an official capacity.” 8 C.F.R. § 1208.18(a)(1). To determine whether a petitioner is eligible for CAT relief, the IJ should consider what is likely to happen upon

¹ Nahom also applied for asylum, withholding of removal, and withholding under the Convention Against Torture. However, the IJ ruled Nahom ineligible for those forms of relief because his conviction for indecent assault on a person less than 13 years of age is a particularly serious crime. We do not consider that conclusion because Nahom does not challenge it in his brief. *See Cortez-Amador v. Att’y Gen.*, 66 F.4th 429, 432 n.4 (3d Cir. 2023); *In re Wettach*, 811 F.3d 99, 115 (3d Cir. 2016) (noting that arguments not developed in an opening brief are forfeited).

removal, and whether what is likely to happen amounts to the legal definition of torture. *Myrie v. Att’y Gen.*, 855 F.3d 509, 516 (3d Cir. 2017).

Here, substantial evidence supports the Board’s determination that Nahom failed to establish that it is more likely than not that he would be tortured upon his removal to Sudan. *See Nasrallah*, 590 U.S. at 583–84. Nahom did not present evidence that he was previously tortured in Sudan. *See* 8 C.F.R. § 1208.16(c)(3). Further, it was not unreasonable for the Board to find that, although Nahom presented evidence that there were patterns of torture, mistreatment, and poor conditions in Sudan, albeit not specifically directed at Christians or Uduks, the record did not indicate that Sudanese officials intended to inflict severe pain or suffering on Nahom in particular. *See Pierre v. Att’y Gen.*, 528 F.3d 180, 190 (3d Cir. 2008) (en banc) (“[A] petitioner cannot obtain relief under the CAT unless he can show that his prospective torturer will have the goal or purpose of inflicting severe pain or suffering.”); *see also Hernandez Garmendia v. Att’y Gen.*, 28 F.4th 476, 484 (3d Cir. 2022) (“The specter of torture must be supported by specific evidence that the individual applicant is more likely than not to be singled out.”) (citation omitted). Additionally, to the extent Nahom fears that the government of Sudan may force him to serve in the military, he has presented no evidence to support such a conclusion, nor that conscription would lead to harm meeting the legal definition of torture. *See* AR 76–78; CA Doc 12 at 3.

Because substantial evidence supports the Board’s determination that Nahom failed to establish that he was eligible for CAT relief, we will deny the petition for review.