

United States Court of Appeals  
For the Eighth Circuit

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No. 20-2631

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Manuel Lopez-Ajualip, by next friend Santos Lopez-Gabriel

*Petitioner*

v.

Monty Wilkinson, Acting Attorney General of the United States<sup>1</sup>

*Respondent*

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

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Submitted: February 23, 2021  
Filed: February 26, 2021  
[Unpublished]

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Before GRASZ, WOLLMAN, and STRAS, Circuit Judges.

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PER CURIAM.

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<sup>1</sup>Monty Wilkinson is serving as Acting Attorney General of the United States, and is substituted as respondent pursuant to Federal Rule of Appellate Procedure 43(c).

Guatemalan citizen and native Santos Lopez-Gabriel, on behalf of his minor son, Manuel Lopez-Ajualip (Petitioner), petitions for review of a Board of Immigration Appeals (BIA) order. The BIA dismissed his appeal from an immigration judge's (IJ's) decision, which denied asylum, withholding of removal, and relief under the Convention Against Torture (CAT). We reject Petitioner's challenge to the IJ's jurisdiction over his removal proceedings, as it is foreclosed by this court's precedent. See Ali v. Barr, 924 F.3d 983, 985-86 (8th Cir. 2019) (jurisdiction over removal proceedings vests when charging document, such as notice to appear, is filed with immigration court). Further, we conclude that substantial evidence supports the agency's decision to deny the asylum application, because a reasonable fact finder could conclude that Petitioner failed to demonstrate past persecution or a well-founded fear of future prosecution on account of a protected ground. See Garcia-Milian v. Lynch, 825 F.3d 943, 945 (8th Cir. 2016) (standard of review). Because he did not prove eligibility for asylum, he necessarily failed to satisfy the more rigorous standard for withholding of removal, see Martin Martin v. Barr, 916 F.3d 1141, 1145 (8th Cir. 2019) (recognizing more rigorous standard of proof); and the claim for CAT relief was also properly denied, as it was based on the same evidence as the claims for asylum and withholding of removal, see Ming Ming Wijono v. Gonzales, 439 F.3d 868, 874 (8th Cir. 2006) (denial of asylum and withholding of removal dictates outcome on CAT claim when petitioner alleged same factual basis for all 3 claims). The petition for review is denied.

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