

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1 **At a stated term of the United States Court of Appeals for the Second**
2 **Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley**
3 **Square, in the City of New York, on the 22nd day of July, two thousand twenty-**
4 **five.**

5
6 **PRESENT:**

7 **MICHAEL H. PARK,**
8 **BETH ROBINSON,**
9 **MARIA ARAÚJO KAHN,**
10 *Circuit Judges.*

11 _____
12
13 **CELSO RICARDO DELEG-**
14 **LOPEZ, VALERIA SETEFANIA LOPEZ-**
15 **ZHICAY, T.M. D.-L.,**
16 *Petitioners,*

17
18 **v.**

23-7268
NAC

19
20 **PAMELA BONDI, UNITED STATES**
21 **ATTORNEY GENERAL,**
22 *Respondent.*¹
23 _____

¹ The Clerk's office is respectfully directed to amend the caption as reflected above.

1 **FOR PETITIONERS:** Reuben S. Kerben, Kerben Law Firm, P.C.,
2 Kew Gardens, NY.

3
4 **FOR RESPONDENT:** Brian Boynton, Principal Deputy Assistant
5 Attorney General; M. Jocelyn Lopez Wright,
6 Senior Litigation Counsel; Giovanni B. Di
7 Maggio, Trial Attorney, Office of Immigration
8 Litigation, United States Department of
9 Justice, Washington, DC.

10 UPON DUE CONSIDERATION of this petition for review of a Board of
11 Immigration Appeals (“BIA”) decision, it is hereby ORDERED, ADJUDGED, AND
12 DECREED that the petition for review is DENIED.

13 Petitioners Celso Ricardo Deleg-Lopez, Valeria Setefania Lopez-Zhicay, and
14 their minor son, natives and citizens of Ecuador, seek review of a September 11,
15 2023, decision of the BIA affirming a March 4, 2022, decision of an Immigration
16 Judge (“IJ”) denying their applications for asylum, withholding of removal, and
17 relief under the Convention Against Torture (“CAT”). *In re Deleg-Lopez*, Nos. A
18 220 449 750/751/752 (B.I.A. Sept. 11, 2023), *aff’g* Nos. A 220 449 750/751/752 (Immig.
19 Ct. N.Y. City Mar. 4, 2022). We assume the parties’ familiarity with the
20 underlying facts and procedural history.

21 We have considered the IJ’s decision as modified and supplemented by the
22 BIA, i.e., including the BIA’s finding that Petitioners waived their CAT claim. *See*

1 *Xue Hong Yang v. U.S. Dep't of Just.*, 426 F.3d 520, 522 (2d Cir. 2005); *Yan Chen v.*
2 *Gonzales*, 417 F.3d 268, 271 (2d Cir. 2005). We review factual findings for
3 substantial evidence and questions of law de novo. See *Yanqin Weng v. Holder*, 562
4 F.3d 510, 513 (2d Cir. 2009). “[T]he administrative findings of fact are conclusive
5 unless any reasonable adjudicator would be compelled to conclude to the
6 contrary.” 8 U.S.C. § 1252(b)(4)(B).

7 First, as the Government argues, Petitioners have abandoned their CAT
8 claim because their brief here does not challenge the BIA’s finding that they
9 waived the claim, nor does it address the merits of the claim. “We consider
10 abandoned any claims not adequately presented in an appellant’s brief, and an
11 appellant’s failure to make legal or factual arguments constitutes abandonment.”
12 *Debique v. Garland*, 58 F.4th 676, 684 (2d Cir. 2023) (quotation marks omitted).

13 Second, substantial evidence supports the agency’s denial of asylum and
14 withholding of removal. Applicants for asylum and withholding of removal
15 must establish past persecution or a fear of future persecution and show that “race,
16 religion, nationality, membership in a particular social group, or political opinion
17 was or will be at least one central reason for persecuting the applicant.” 8 U.S.C.
18 § 1158(b)(1)(B)(i); see also 8 C.F.R. §§ 1208.13(b), 1208.16(b); *Quituizaca v. Garland*,

1 52 F.4th 103, 105–06 (2d Cir. 2022) (holding that the “one central reason” standard
2 applies to both asylum and withholding). Where, as here, applicants seek relief
3 based on membership in a particular social group, they have to show both that the
4 group is cognizable and that membership in the group is a central reason for the
5 harm suffered or feared. *See Paloka v. Holder*, 762 F.3d 191, 195 (2d Cir. 2014).

6 Although an “applicant need not demonstrate that a protected ground was
7 the exclusive reason for persecution,” *Castro v. Holder*, 597 F.3d 93, 103 (2d Cir.
8 2010), “where there is more than one motive for mistreatment . . . , an applicant’s
9 status as a member of a particular social group . . . must be at least one of the central
10 reasons, rather than a minor reason, for why that individual is being targeted,”
11 *Garcia-Aranda v. Garland*, 53 F.4th 752, 757 (2d Cir. 2022). An “applicant must . . .
12 show, through direct or circumstantial evidence, that the persecutor’s motive to
13 persecute arises from the applicant’s” protected characteristic. *Yueqing Zhang v.*
14 *Gonzales*, 426 F.3d 540, 545 (2d Cir. 2005); *see also Paloka*, 762 F.3d at 196–97
15 (“Whether the requisite nexus exists depends on the view and motives of the
16 persecutor.” (quotation marks omitted)). We review a nexus determination for
17 substantial evidence. *See Edimo-Doualla v. Gonzales*, 464 F.3d 276, 282–83 (2d Cir.
18 2006).

1 Petitioners asserted membership in the particular social group of “younger
2 parents of the lower socio-economic class in Ecuador.” Certified Administrative
3 Record (“CAR”) 72. The agency determined that they had not established a nexus
4 between the harm suffered and membership in that group because the assailants
5 tried to recruit Deleg-Lopez to strengthen their gang’s operations, and not because
6 of his membership in any particular social group. Petitioners argue that, as set
7 forth in Deleg-Lopez’s affidavit, “he was targeted . . . because of his youth and
8 because he had a young child.” Petitioner’s Brief at 10 (citing CAR 92).

9 Substantial evidence supports the agency’s conclusion that Petitioners failed
10 to show that Deleg-Lopez’s youth or status as a parent was a central, rather than a
11 “tangential or incidental” reason, that the gangs targeted him. *Garcia-Aranda*, 53
12 F.4th at 758. Deleg-Lopez stated that gang members attempted to recruit him on
13 several occasions, threatening and physically harming him in reprisal for his
14 refusals to join the gang. The agency could reasonably conclude that these facts
15 reflect that the gang wanted to expand its ranks, not that gang members had
16 animosity towards him as a young parent, and Deleg-Lopez did not present other
17 facts to show that the gang was motivated by characteristics of the proposed
18 group. *See Garcia-Aranda*, 53 F.4th at 757; *Quituzaca*, 52 F.4th at 115. The gang’s

1 attempt to increase its power does not establish that Deleg-Lopez (or his partner
2 and child) was targeted on account of a protected ground. *See Paloka*, 762 F.3d at
3 196–97; *cf. Ucelo-Gomez v. Mukasey*, 509 F.3d 70, 73 (2d Cir. 2007) (holding that
4 “[w]hen the harm visited upon members of a group is attributable to the incentives
5 presented to ordinary criminals rather than to persecution, the scales are tipped
6 away from considering those people a ‘particular social group’”). For these
7 reasons, substantial evidence supports the agency’s decision.

8 Because Deleg-Lopez failed to establish a nexus, we need not reach the
9 cognizability of his proposed social group. *See Paloka*, 762 F.3d at 195; *see also INS*
10 *v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“As a general rule courts and agencies are not
11 required to make findings on issues the decision of which is unnecessary to the
12 results they reach.”).

13 For the foregoing reasons, the petition for review is DENIED. All pending
14 motions and applications are DENIED and stays VACATED.

15 FOR THE COURT:
16 Catherine O’Hagan Wolfe,
17 Clerk of Court