

**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 TO 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  
2 for the Second Circuit, held at the Thurgood Marshall  
3 United States Courthouse, 40 Foley Square, in the City of  
4 New York, on the 16<sup>th</sup> day of May, two thousand eighteen.

5  
6 **PRESENT:**

7           ROBERT A. KATZMANN,  
8                         *Chief Judge,*  
9           JON O. NEWMAN  
10           PETER W. HALL,  
11                         *Circuit Judges.*

12  
13  
14 MAURICIO ZEFERINO CARRANZA,  
15                         *Petitioner,*

16  
17           v.

17-981  
NAC

18  
19 JEFFERSON B. SESSIONS III,  
20 UNITED STATES ATTORNEY GENERAL,  
21                         *Respondent.*

22  
23  
24 **FOR PETITIONER:**                         Samuel N. Iroegbu, Albany, NY.

25  
26 **FOR RESPONDENT:**                         Chad A. Readler, Acting Assistant  
27 Attorney General; Stephen J.  
28 Flynn, Assistant Director; Robert  
29 M. Stalzer, Trial Attorney; Arthur

1 L. Rabin, Trial Attorney, Office  
2 of Immigration Litigation, United  
3 States Department of Justice,  
4 Washington, DC.  
5

6 UPON DUE CONSIDERATION of this petition for review of a  
7 Board of Immigration Appeals ("BIA") decision, it is hereby  
8 ORDERED, ADJUDGED, AND DECREED that the petition for review  
9 is DISMISSED in part, and DENIED in remaining part.

10 Petitioner Mauricio Zeferino Carranza, a native and  
11 citizen of Mexico, seeks review of a March 9, 2017, decision  
12 of the BIA affirming a September 9, 2016, decision of an  
13 Immigration Judge ("IJ") denying Carranza's application for  
14 asylum, withholding of removal, and relief under the  
15 Convention Against Torture ("CAT"). *In re Mauricio Zeferino*  
16 *Carranza*, No. A 206 471 686 (B.I.A. Mar. 9, 2017), *aff'g* No.  
17 A 206 471 686 (Batavia Sept. 9, 2016). We assume the parties'  
18 familiarity with the underlying facts and procedural history  
19 in this case.

20 The Government moves for summary denial of Carranza's  
21 petition for review. Summary denial is warranted only if a  
22 petition is frivolous, *Pillay v. INS*, 45 F.3d 14, 17 (2d Cir.  
23 1995). Because Carranza has filed his merits brief, we

1 decline to address whether the petition is frivolous and  
2 instead treat the Government's motion as a response to that  
3 brief.

4 We have reviewed both the BIA's and IJ's decisions "for  
5 the sake of completeness." *Wangchuck v. Dep't of Homeland*  
6 *Sec.*, 448 F.3d 524, 528 (2d Cir. 2006). The standards of  
7 review are well established. See 8 U.S.C. § 1252(b)(4)(B);  
8 *Yanqin Weng v. Holder*, 562 F.3d 510, 513-14 (2d Cir. 2009).

9 **I. Time Bar Ruling**

10 An asylum applicant must file an application within one  
11 year of arrival in the United States or must demonstrate,  
12 inter alia, "extraordinary circumstances relating to the  
13 delay in filing an application." 8 U.S.C. § 1158(a)(2)(B),  
14 (D). Our jurisdiction to review the agency's finding that  
15 an application is untimely is limited to "constitutional  
16 claims or questions of law." 8 U.S.C. §§ 1158(a)(3),  
17 1252(a)(2)(D). No such question is implicated here because  
18 the IJ considered Carranza's explanation that he did not apply  
19 for asylum on entering the United States because he was young  
20 and unfamiliar with U.S. immigration law, but found that it  
21 was not an extraordinary circumstance sufficient to explain

1 a delay of approximately 27 years. We dismiss the petition  
2 as to asylum because Carranza merely challenges the IJ's  
3 factual determinations, which we lack jurisdiction to review.  
4 See *Joaquin-Porras v. Gonzales*, 435 F.3d 172, 180 (2d Cir.  
5 2006).

6 **II. Merits**

7 To qualify for withholding of removal, an applicant must  
8 establish that his "life or freedom would be threatened" in  
9 the country of removal on one of five statutory grounds:  
10 "race, religion, nationality, membership in a particular  
11 social group, or political opinion." 8 U.S.C.  
12 § 1231(b)(3)(A); see 8 C.F.R. § 1208.16(b); *Ramsameachire v.*  
13 *Ashcroft*, 357 F.3d 169, 178 (2d Cir. 2004). The agency did  
14 not err in finding that Carranza failed to establish his  
15 eligibility for asylum and withholding of removal insofar as  
16 those claims were based on the threatening actions of a cartel  
17 member. As the agency concluded, threats that cartel members  
18 would harm Carranza if he did not agree to sell drugs for the  
19 cartel did not constitute past persecution. See *Gui Ci Pan*  
20 *v. U.S. Att'y General*, 449 F.3d 408, 412-13 (2d Cir. 2006)

1 (recognizing that unfulfilled threats alone do not constitute  
2 persecution).

3 The agency did not err in finding that Carranza failed  
4 to establish a well-founded fear of future persecution  
5 because he did not prove that his fear was objectively  
6 reasonable. 8 C.F.R. § 1208.13(b)(2)(i); *Ramsameachire*, 357  
7 F.3d at 178. He conceded that he had no proof that the cartel  
8 still existed or that its members would seek him out if he  
9 returned to Mexico. *Jian Xing Huang v. U.S. INS*, 421 F.3d  
10 125, 129 (2d Cir. 2005). His proposed particular social  
11 group of "young persons subject to potential gang or drug  
12 cartel recruitment" is not cognizable. See *Matter of S-E-G-*  
13 *,* 24 I. & N. Dec. 579, 586-88 (B.I.A. 2008). And Carranza's  
14 family members, including his siblings, remained unharmed in  
15 Mexico. See *Melgar de Torres v. Reno*, 191 F.3d 307, 313 (2d  
16 Cir. 1999).

17 Moreover, Carranza did not establish eligibility for  
18 protection under the CAT because he failed to show that he is  
19 "more likely than not" to be tortured by or with the  
20 acquiescence of a government official on return to Mexico.  
21 8 C.F.R. §§ 1208.16(c)(2), 1208.18(a)(1). Although he

1 explained that he is afraid the drug cartel will torture and  
2 kill him if he returns, he did not demonstrate that an  
3 official of the Mexican government would acquiesce in the  
4 commission of such harm. *Id.*

5 For the foregoing reasons, the petition for review is  
6 DISMISSED for lack of jurisdiction with respect to asylum,  
7 and DENIED in remaining part with respect to withholding of  
8 removal and CAT relief.

9 FOR THE COURT:  
10 Catherine O'Hagan Wolfe, Clerk of Court