

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 23 2021

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JACK DONALD ANTONIO, AKA Jack
Antonio, AKA Jack Donald Castillo,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 13-71256

Agency No. A041-326-779

MEMORANDUM*

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

Submitted July 19, 2021 **

Before: SCHROEDER, SILVERMAN, and MURGUIA, Circuit Judges.

Jack Donald Antonio, a native and citizen of Belize, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision pretermittting his application for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review de novo

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

questions of law. *Jauregui-Cardenas v. Barr*, 946 F.3d 1116, 1118 (9th Cir. 2020). We deny the petition for review.

The BIA did not err in concluding that Antonio failed to meet his burden to establish that his conviction under Arizona Revised Statutes (“Ariz. Rev. Stats.”) § 13-3405(A)(4) is not an aggravated felony drug trafficking offense that renders him ineligible for cancellation of removal. *See* 8 U.S.C. § 1229b(a)(3); *Pereida v. Wilkinson*, 141 S. Ct. 754, 766 (2021) (an applicant for relief bears the burden of showing eligibility and cannot meet burden with an inconclusive conviction record); *see also Rosas-Castaneda v. Holder*, 655 F.3d 875, 885-86 (9th Cir. 2011) (applying the modified categorical approach to Ariz. Rev. Stats. § 13-3405(A)(4)), *overruled on other grounds by Young v. Holder*, 697 F.3d 976, 979-80 (9th Cir. 2012) (en banc).

We grant the unopposed motion for leave to file a brief of amicus curiae.

The stay of removal remains in place until issuance of the mandate.

PETITION FOR REVIEW DENIED.