

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 20 2021

FOR THE NINTH CIRCUIT

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

RAFAEL MARTINEZ,

No. 14-73637

Petitioner,

Agency No. A091-607-548

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted August 17, 2021**

Before: SILVERMAN, CHRISTEN, and LEE, Circuit Judges.

Rafael Martinez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for cancellation of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law.

* 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).

Coronado v. Holder, 759 F.3d 977, 982 (9th Cir. 2014). We deny in part and dismiss in part the petition for review.

The agency properly denied cancellation of removal, where Martinez failed to establish that he was not convicted of an aggravated felony. *See* 8 U.S.C. § 1229b(a)(3); *Pereida v. Wilkinson*, 141 S.Ct. 754, 766 (2021) (an inconclusive conviction record is insufficient to meet applicant's burden of proof to show eligibility for relief). We lack jurisdiction to consider Martinez's contention that the record does not establish that he was convicted under California Health and Safety Code Sections 11351 and 11352. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (court lacks jurisdiction to review claims not presented to the agency). Thus, Martinez's cancellation of removal claim fails.

In light of this disposition, we need not reach Martinez's contention that he was lawfully admitted for permanent residence. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (the courts are not required to decide issues that are unnecessary to the results).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.