

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 21 2021

FOR THE NINTH CIRCUIT

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

JOSE ALBERTO GOMEZ-ORTIZ,

No. 13-74408

Petitioner,

Agency No. A093-448-668

v.

MEMORANDUM\*

MERRICK B. GARLAND, Attorney  
General,

Respondent.

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

Submitted September 14, 2021\*\*

Before: PAEZ, NGUYEN, and OWENS, Circuit Judges.

Jose Alberto Gomez-Ortiz, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. *Pinto v.*

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\* 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).

*Holder*, 648 F.3d 976, 986 (9th Cir. 2011) (BIA order denying relief from removal, but remanding for voluntary departure proceedings, is a final order of removal).

We review de novo questions of law. *Coronado v. Holder*, 759 F.3d 977, 982 (9th Cir. 2014). We deny the petition for review.

The agency properly denied cancellation of removal, where the conviction documents unambiguously indicate that Gomez-Ortiz was convicted under California Health & Safety Code (“CHSC”) Section 11550(a), which is a controlled substance offense. *See* 8 U.S.C. §§ 1182(a)(2)(A)(i)(II), 1229b(b)(1)(C); *Tejeda v. Barr*, 960 F.3d 1184, 1186 (9th Cir. 2020) (holding CHSC § 11550(a) is divisible with regard to substance and subject to the modified categorical approach); *Cabantac v. Holder*, 736 F.3d 787, 793-94 (9th Cir. 2013) (Under the modified categorical approach, where “the abstract of judgment or minute order specifies that a defendant pleaded guilty to a particular count of the criminal complaint or indictment, we can consider the facts alleged in that count.”).

Gomez-Ortiz’s request for oral argument, raised in his opening brief, is denied.

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

**PETITION FOR REVIEW DENIED.**