

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 17 2021

FOR THE NINTH CIRCUIT

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

ISMAEL SOLIS-VILLEDA, AKA Ismael
Solis, AKA Ismael Villeda Solis,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 18-70316

Agency No. A205-711-939

MEMORANDUM*

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

Submitted December 14, 2021**

Before: WALLACE, CLIFTON, and HURWITZ, Circuit Judges.

Ismael Solis-Villeda, 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 pretermittting his applications for cancellation of removal and adjustment of status. We have jurisdiction under 8 U.S.C. § 1252.

* 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).

We review de novo questions of law. *Cerezo v. Mukasey*, 512 F.3d 1163, 1166 (9th Cir. 2008). We deny the petition for review.

The IJ did not err in reopening the record of proceedings, where in petition No. 15-70696, this court granted the government’s motion to remand, in part, to further develop the record concerning Solis-Villeda’s conviction, and Solis-Villeda did not petition for rehearing of that decision. *See Olivas-Motta v. Whitaker*, 910 F.3d 1271, 1280 (9th Cir. 2018) (“an administrative agency may not deviate from a supervising court’s remand order”).

The BIA did not err in concluding that California Health and Safety Code (“CHSC”) § 11377(a) is divisible and in applying the modified categorical approach to determine that Solis-Villeda’s conviction is a controlled substance offense that renders him ineligible for cancellation of removal and adjustment of status. *See* 8 U.S.C. §§ 1182(a)(2)(A)(i)(II), 1229b(b)(1)(C), 1255(i)(2)(A); *Coronado v. Holder*, 759 F.3d 977, 984-85 (9th Cir. 2014) (holding CHSC § 11377(a) is divisible with regard to substance and subject to the modified categorical approach).

PETITION FOR REVIEW DENIED.