

FILED

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAVIER ALFONSO LUNA RIVERA,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 17-72523

Agency No. A205-173-654

MEMORANDUM*

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

Submitted February 9, 2023**
Pasadena, California

Before: SCHROEDER, TALLMAN, and IKUTA, Circuit Judges.

Javier Alfonso Luna Rivera seeks review of an order of the Board of
Immigration Appeals (BIA) affirming the decision of an Immigration Judge (IJ)

* 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).

denying his application for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252(a)(1), and we deny the petition.

The BIA did not err in concluding that Luna Rivera’s conviction under Section 245(a)(1) of the California Penal Code was a crime involving moral turpitude (CIMT) under 8 U.S.C. § 1182(a)(2)(A)(i)(I). *See Safaryan v. Barr*, 975 F.3d 976, 981 (9th Cir. 2020) (“[A] violation of § 245(a)(1) is categorically a [CIMT].”).

Under 8 U.S.C. § 1229b(b)(1)(C), an alien who is convicted of certain enumerated offenses, including a CIMT, 8 U.S.C. § 1182(a)(2)(A)(i)(I), is “ineligible for cancellation of removal,” *Barton v. Barr*, 140 S. Ct. 1442, 1452 (2020), as we have confirmed on many occasions, *see, e.g., Ballinas-Lucero v. Garland*, 44 F.4th 1169, 1173 (9th Cir. 2022); *Diaz-Flores v. Garland*, 993 F.3d 766, 773–74 (9th Cir. 2021).

Thus, because Luna Rivera’s conviction under Section 245(a)(1) was a CIMT, he is ineligible for cancellation of removal.

PETITION DENIED.