

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 3 2023

FOR THE NINTH CIRCUIT

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

TOMAS MOTA OROZCO,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 21-187

Agency No.
A203-142-733

MEMORANDUM*

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

Submitted June 26, 2023**

Before: CANBY, S.R. THOMAS, and CHRISTEN, Circuit Judges.

Tomas Mota Orozco, 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 decision denying his application for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir.

* 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).

2005). We deny the petition for review.

The BIA properly denied cancellation of removal where the record is inconclusive as to whether Orozco was convicted under Cal. Penal Code § 273.5(a) and Orozco thus failed to meet his burden of proof to establish that he was not convicted of a crime of domestic violence. *See Pereida v. Wilkinson*, 141 S. Ct. 754, 761(2001) (an inconclusive conviction record is insufficient to meet applicant’s burden of proof to show eligibility for relief); *Valdez v. Garland*, 28 F.4th 72, 78 (9th Cir. 2022) (conviction under Cal. Penal Code § 273.5(a) is categorically a crime of domestic violence). Orozco’s contention that *Pereida* is distinguishable is unavailing. *See Marinelarena v. Garland*, 6 F.4th 975, 977 (9th Cir. 2021) (“burden of proof [is] on an applicant for immigration relief to show the absence of a disqualifying conviction”).

PETITION FOR REVIEW DENIED.