

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 28 2021

FOR THE NINTH CIRCUIT

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

RAIMUNDO SANDOVAL-CARRANZA,
AKA Raymundo Sr. Sandoval,

Petitioner,

v.

ROBERT M. WILKINSON, Acting
Attorney General,

Respondent.

No. 18-73374

Agency No. A092-168-012

MEMORANDUM*

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

Submitted January 20, 2021**

Before: McKEOWN, CALLAHAN, and BRESS, Circuit Judges.

Raimundo Sandoval-Carranza, 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 finding him removable and pretermittting his application for cancellation of removal. We have jurisdiction under 8 U.S.C.

* 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).

§ 1252. We review de novo questions of law. *Cerezo v. Mukasey*, 512 F.3d 1163, 1166 (9th Cir. 2008). We grant the petition and remand.

Sandoval-Carranza was charged with removability based on his conviction under California Penal Code § 32. The agency sustained that charge and concluded that Sandoval-Carranza was statutorily ineligible for cancellation of removal because of that conviction. Our decision in *Valenzuela Gallardo v. Barr*, 968 F.3d 1053, 1069 (9th Cir. 2020), clarifies that “California Penal Code § 32 is not a categorical match with obstruction of justice under [Immigration and Nationality Act] § 101(a)(43)(S)” Thus, this charge of removability cannot be sustained, and the conviction does not support premitting Sandoval-Carranza’s application for cancellation of removal.

We remand to the agency for further proceedings consistent with this order. *See Andia v. Ashcroft*, 359 F.3d 1181, 1184 (9th Cir. 2004) (“In reviewing the decision of the BIA, we consider only the grounds relied upon by that agency. If we conclude that the BIA’s decision cannot be sustained upon its reasoning, we must remand to allow the agency to decide any issues remaining in the case.”).

PETITION FOR REVIEW GRANTED; REMANDED.