

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 21 2019

FOR THE NINTH CIRCUIT

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

DANY HIGUEROS-SAGASTUME,

No. 17-70238

Petitioner,

Agency No. A077-312-779

v.

MEMORANDUM*

WILLIAM P. BARR, Attorney General,

Respondent.

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

Submitted February 19, 2019**

Before: FERNANDEZ, SILVERMAN, and WATFORD, Circuit Judges.

Dany Higueros-Sagastume, a native and citizen of Guatemala, 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. Our jurisdiction is governed by 8 U.S.C. § 1252. We

* 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).

review de novo questions of law. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

Higueros-Sagastume has not shown that the BIA's issuance of a summary affirmance without opinion violated due process. *See Falcon Carriche v. Ashcroft*, 350 F.3d 845, 851 (9th Cir. 2003).

We lack jurisdiction to review the agency's denial of cancellation of removal as a matter of discretion. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Monroy v. Lynch*, 821 F.3d 1175, 1177-78 (9th Cir. 2016) (holding that petitioner did not raise a reviewable issue because "he simply disagrees with the agency's weighing of his positive equities and the negative factors"). Although the court would retain jurisdiction over colorable questions of law and constitutional claims, Higueros-Sagastume's contentions that the agency misconstrued or failed to consider evidence, or that it failed to provide sufficient reasoning, are unsupported and therefore not colorable. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005) ("To be colorable in this context, . . . the claim must have some possible validity." (citation and internal quotation marks omitted)).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.