

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 22 2023

FOR THE NINTH CIRCUIT

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

JESUS SILVA-PLASCENCIA,

No. 18-73249

Petitioner,

Agency No. A205-150-541

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted February 17, 2023**
San Francisco, California

Before: FRIEDLAND, BADE, and KOH, Circuit Judges.

Jesus Silva-Plascencia (“Silva-Plascencia”), a native and citizen of Mexico, petitions for review of a decision of the Board of Immigration Appeals (“BIA”) affirming the denial by an Immigration Judge (“IJ”) of Silva-Plascencia’s applications for cancellation of removal and voluntary departure. We deny the

* 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).

petition in part and dismiss in part.

Our jurisdiction over challenges to the discretionary decision to deny cancellation of removal or voluntary departure is limited to colorable legal or constitutional claims. *See* 8 U.S.C. § 1252(a)(2)(B)(i), (D); *Patel v. Garland*, 142 S. Ct. 1614, 1622–23 (2022). To the extent Silva-Plascencia argues that the BIA violated his right to due process by summarily affirming the IJ’s decision, that constitutional claim is foreclosed by *Falcon Carriche v. Ashcroft*, 350 F.3d 845, 851 (9th Cir. 2003) (holding that it is not “a due process violation for the BIA to affirm the IJ’s decision [denying cancellation of removal] without issuing an opinion”). We deny the petition as to that claim.

The petition does not otherwise raise a colorable legal or constitutional claim and thus we lack jurisdiction. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005).

PETITION DENIED IN PART AND DISMISSED IN PART.