UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-1703

KEMAR ROGELO WHITE,

Petitioner,

v.

TODD BLANCHE, Attorney General,

Respondent.

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

Submitted: July 8, 2026 Decided: August 19, 2026

Before HARRIS, RICHARDSON, and HEYTENS, Circuit Judges.

Petition granted and remanded by unpublished per curiam opinion.

Kemar Rogelo White, Petitioner Pro Se. Carlton Frederick Sheffield, Civil Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kemar Rogelo White is a native and citizen of Jamaica who has been a lawful permanent resident (LPR) of the United States since 2003. White petitions for review of an order of the Board of Immigration Appeals (Board) dismissing his appeal from the immigration judge's (IJ) decision (a) finding White was statutorily ineligible for asylum and withholding of removal because his prior conviction for use or display of a firearm in committing a felony, in violation of Va. Code Ann. § 18.2-53.1, qualified as an aggravated felony crime of violence, *see* 8 U.S.C. § 1101(a)(43)(F); 18 U.S.C. § 16(a); (b) denying White's application for protection under the Convention Against Torture; and (c) ordering White removed to Jamaica. We grant the petition for review.

On appeal to the Board, White requested that his case be remanded to the immigration court for consideration of cancellation of removal of an LPR, as provided for in 8 U.S.C. § 1229b(a). Under this provision, the Attorney General may cancel the removal of an LPR who, as relevant here, has not been convicted of any aggravated felony offense. 8 U.S.C. § 1229b(a)(3). The Board denied the remand request, agreeing that White's conviction under Va. Code Ann. § 18.2-53.1 qualified as an aggravated felony crime of violence, which rendered White statutorily ineligible for cancellation of removal.

We have held this petition for review in abeyance for various decisions from this court that were expected to consider whether the subject Virginia statute qualified as a "crime of violence" in the federal sentencing context including, most recently, *United States v. Scott*, No. 25-4048. In *Scott*, we ruled that a conviction under Va. Code Ann. § 18.2-53.1 does not qualify, categorically, as a crime of violence under the elements clause

of the career offender Guideline.[*] *United States v. Scott*, 176 F.4th 806, 811-14 (4th Cir. 2026). *Scott* therefore undermines the agency's holding that White's conviction under Va. Code Ann. § 18.2-53.1 has as an element the use, attempted use, or threatened use of physical force against the person of another, and thus qualified categorically as a crime of violence under 18 U.S.C. § 16(a)—which is what precluded White from pursuing cancellation of removal in the first instance.

We therefore grant the petition for review and remand this matter to the Board for further consideration of White's eligibility for cancellation of removal, and removability as an aggravated felon, in light of *Scott*. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION GRANTED AND REMANDED

[*] *See* U.S. Sentencing Guidelines Manual § 4B1.2(a)(1).