

United States Court of Appeals For the First Circuit

No. 25-2029

CARLOS RENE ESPINOZA BENITEZ,

Petitioner,

v.

TODD BLANCHE, Attorney General,*

Respondent.

PETITION FOR REVIEW OF AN ORDER OF
THE BOARD OF IMMIGRATION APPEALS

Before

Rikelman, Lynch, and Aframe,
Circuit Judges.

Kristian R. Meyer, Kevin P. MacMurray, and MacMurray & Associates on brief for petitioner.

Marie V. Robinson, Attorney, United States Department of Justice, Office of Immigration Litigation, Brett A. Shumate, Assistant Attorney General, Civil Division, and Cindy S. Ferrier, Assistant Director, Office of Immigration Litigation, on brief for respondent.

September 1, 2026

* Pursuant to Federal Rule of Appellate Procedure 43(c)(2), Todd Blanche has been substituted for Pamela J. Bondi as Attorney General.

LYNCH, Circuit Judge. Carlos Rene Espinoza Benitez ("Espinoza"), a native and citizen of El Salvador, seeks review of the decision by the Board of Immigration Appeals ("BIA") affirming the Immigration Judge's ("IJ") denial of cancellation of removal. In 2018, after the Department of Homeland Security ("DHS") started removal proceedings, Espinoza conceded removability and sought cancellation of removal on the grounds that it would result in "exceptional and extremely unusual hardship," 8 U.S.C. § 1229b(b)(1)(D), to his two U.S. citizen children: his daughter, D.E., who was nineteen years old in 2020, and his son, J.P.E., who was then seventeen years old. Espinoza argued that, if removed to El Salvador, he would not be able to provide J.P.E. with his necessary asthma medication. He did not make a similar argument as to D.E.

The IJ, after an evidentiary hearing, held that Espinoza had failed to meet his burden to establish exceptional and extremely unusual hardship, including that Espinoza failed to demonstrate that J.P.E.'s asthma constituted a serious medical condition or that, even if it did, he could not obtain medical treatment for J.P.E.'s condition in El Salvador. We deny Espinoza's petition.

I.

Espinoza entered the United States in 2000 on a visa and overstayed its expiration in 2001. In 2018, DHS charged Espinoza

as subject to removal under 8 U.S.C. § 1227(a)(1)(B). Espinoza conceded removability and applied for cancellation of removal, claiming that it would result in "exceptional and extremely unusual hardship" to his children under § 1229b(b)(1)(D). In his removal proceedings, Espinoza provided documents and testimony showing that his son suffered from asthma, is treated with medications, including an inhaler, and was hospitalized in 2014 for an asthma attack and in 2020 for COVID-19 symptoms. He also testified that he primarily supports their household working as a dental assistant, while his wife works at a box assembly company. He testified that he pays for a majority of household expenses, and that his wife would be unable to afford their expenses if he were removed. Espinoza testified that although he received a college degree in dentistry in El Salvador, he would struggle to find a dentist position there, would make less money if he found one, and would be vulnerable to extortion by gangs. Espinoza testified that he believed he would not be able to afford J.P.E.'s asthma medications in El Salvador but admitted that he did not know their costs.

The IJ assumed, but did not find, that Espinoza was credible. The IJ denied Espinoza's application for cancellation of removal, finding that Espinoza had provided no precise testimony or corroborating evidence as to the cost or availability of asthma medications and treatment, or that Espinoza and his wife could not

afford the medications in El Salvador. The IJ concluded that Espinoza "failed to demonstrate the requisite exceptional and extremely unusual hardship" to his children that would qualify Espinoza for cancellation of removal under § 1229b(b)(1)(D). The BIA affirmed the IJ's ruling without opinion.

II.

Where, as here, the BIA affirms without a separate opinion, we review the IJ's opinion as the final agency decision. See Castillo-Diaz v. Holder, 562 F.3d 23, 26 (1st Cir. 2009). Under Wilkinson v. Garland, 601 U.S. 209 (2024), our review is restricted to the agency's "application of the exceptional and extremely unusual hardship standard to a given set of facts." Id. at 217. And "[b]ecause this mixed question is primarily factual, that review is deferential." Id. at 225. This court "is still without jurisdiction to review a factual question raised in an application for discretionary relief." Id. at 222; see also Argueta Castillo v. Blanche, 177 F.4th 307, 312 (1st Cir. 2026) (quoting Wilkinson, 601 U.S. at 225); Samayoa v. Bondi, 146 F.4th 128, 136 (1st Cir. 2025) ("This scheme bars us from reviewing the facts underlying the [a]gency's determination, but we retain jurisdiction to review questions of law, including the application of a legal standard to a given set of adjudicated facts.").

Accepting the IJ's factual findings, we review her application of § 1229b(b)(1)(D) to the facts as a mixed question

of law and fact reviewable under 8 U.S.C. § 1252(a)(2)(D). Wilkinson, 601 U.S. at 222. "Our review is deferential." Figueroa v. Garland, 119 F.4th 160, 166 (1st Cir. 2024) (citing Wilkinson, 601 U.S. at 225). And although this circuit has not defined the precise standard of review that should govern, we need not do so here because we would reach the same conclusion under any deferential standard of review. See Id. at 166 n.7.¹

III.

A petitioner bringing an extreme hardship claim has the burden of proving "that h[is] qualifying relatives would suffer hardship that is substantially different from, or beyond, that which would normally be expected from the deportation of" a noncitizen with close relatives in the United States. Cano v. Bondi, 152 F.4th 237, 245 (1st Cir. 2025) (quoting Tacuri-Tacuri v. Garland, 998 F.3d 466, 472 (1st Cir. 2021), abrogation on other grounds recognized by Figueroa, 119 F.4th at 165).

Espinoza argues that the IJ departed from agency law in holding that he did not meet his burden. The IJ applied four BIA

¹ Espinoza cites Loper Bright Enterprises (Loper Bright) v. Raimondo, 603 U.S. 369 (2024), to suggest that the agency is only entitled to deference if it engaged in "reasoned decisionmaking." We need not decide whether Loper Bright provides the relevant standard of review because even if so, the IJ engaged in "reasoned decisionmaking" and Espinoza's claim fails. See Nolasco v. Bondi, 134 F.4th 677, 682 (1st Cir. 2025) (declining to decide whether Loper Bright applies since petitioners would lose under a de novo standard of review).

decisions that dealt with the exceptional and extremely unusual hardship standard: Matter of J-J-G-, 27 I. & N. Dec. 808 (BIA 2020), Matter of Gonzalez Recinas, 23 I. & N. Dec. 467 (BIA 2002), Matter of Andazola-Rivas, 23 I. & N. Dec. 319 (BIA 2002), and Matter of Monreal-Aguinaga, 23 I. & N. Dec. 56 (BIA 2001). Monreal-Aguinaga provides factors for IJs to weigh in the aggregate to determine whether a petitioner has met the standard.² 23 I. & N. Dec. at 63-64. The IJ applied the Monreal-Aguinaga factors and situated Espinoza's case among the other BIA precedents that have applied the same factors. Contrary to Espinoza's argument, the IJ weighed the relevant factors in the aggregate, and reasonably determined that he failed to meet his burden.

The factor most relevant to Espinoza's application is "the health of . . . qualifying family members," such as a "child with very serious health issues." Id. at 63. The IJ applied this agency law when finding that J.P.E.'s asthma was not a serious medical condition based on evidence that the asthma was treatable, under control, and had required a hospital visit. Alternatively, the IJ determined that even if J.P.E.'s asthma were a serious medical condition, Espinoza failed to meet his burden to show that

² Espinoza does not challenge the holdings of these BIA decisions and so this opinion should not be taken as an endorsement of the BIA's approach to evaluating the exceptional and extremely unusual hardship standard. We discuss these precedents for the limited purpose of deciding petitioner's claim that the IJ departed from agency law.

he could not obtain treatment for J.P.E.'s condition in El Salvador, and so the fact of the medical condition did not support a hardship finding. To the extent Espinoza challenges the IJ's factual findings about J.P.E.'s asthma that supported her ultimate lack of hardship determination, we do not have jurisdiction to review those underlying factual findings. See Xirum v. Bondi, 141 F.4th 345, 352-53 (1st Cir. 2025). And to the extent he contends that the IJ ignored relevant evidence about J.P.E.'s medical condition altogether, which is a legal claim that we have jurisdiction to review de novo, see id. at 353-54, we reject that claim. The IJ expressly discussed J.P.E.'s asthma, the medications Espinoza needs to treat J.P.E.'s asthma, J.P.E.'s two visits to the hospital, and Espinoza's concerns that he would be unable to obtain that medication at an affordable price in El Salvador and that Espinoza and J.P.E. would live about forty-five minutes from a hospital if they returned. But the IJ concluded that the evidence presented on these issues was not enough to bring any hardship to the "exceptional and extremely unusual" level required by the statute. The IJ did not overlook this evidence.

The IJ applied BIA precedent and properly found that none of the other factors, individually or cumulatively, are substantially beyond that which would ordinarily be expected in cases of removal. For example, the IJ rejected the argument that Espinoza's case was similar to Gonzalez Recinas, in which the BIA

applied the Monreal-Aguinaga factors and found exceptional and extremely unusual hardship. See 23 I. & N. Dec. at 469-73. In Gonzalez Recinas, the respondent was a single mother and sole provider to six children who did not speak Spanish and had no family ties in Mexico. Id. at 471. Those factors, along with the diminished educational and financial opportunities, lack of relatives in Mexico, and other factors, were enough to demonstrate sufficient hardship. Id. at 472. Conversely, here, the IJ noted that Espinoza has only two children, whom he provides for with his spouse. Unlike in Gonzalez Recinas, both children are fluent in Spanish. Although El Salvador would provide the children a lower standard of living and moving there would subject them to emotional hardship, the IJ determined that such factors were insufficient even when considered with the rest of the factors to constitute exceptional and extremely unusual hardship beyond that which would normally be expected from the deportation of a noncitizen.

The petition for review is denied.