

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 18, 2026

Christopher M. Wolpert
Clerk of Court

MIGUEL CASTANEDA-RAMIREZ,

Petitioner,

v.

TODD BLANCHE*, United States
Attorney General,

Respondent.

No. 25-9554
(Petition for Review)

ORDER AND JUDGMENT**

Before **MATHESON, CARSON**, and **ROSSMAN**, Circuit Judges.

An immigration judge (“IJ”) denied Miguel Castaneda-Ramirez’s application for cancellation of removal. The IJ also denied his motion to terminate proceedings based on his pending U Visa petition. The Board of Immigration Appeals (“BIA”)

* On August 10, 2026, Todd Blanche became the Attorney General of the United States. Consequently, his name has been substituted as Respondent. *See* Fed. R. App. P. 43(c)(2)

**After examining the briefs and appellate record, this panel has determined unanimously to honor the parties’ request for a decision on the brief without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore submitted without argument. This case is not binding precedent, except under the doctrines of law of the case, re judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1

affirmed and also denied his renewed motion to terminate proceedings. Exercising jurisdiction under 8 U.S.C. § 1252(a), we deny his petition for review.

I. BACKGROUND

In 2011, Mr. Castaneda-Ramirez, a native and citizen of Mexico, entered the United States illegally. After the Department of Homeland Security charged him with removability, he conceded the charge and filed for cancellation of removal. *See* 8 U.S.C. § 1229b(b)(1).

A. IJ Proceedings

1. Cancellation of Removal

Cancellation of removal involves a two-step process. “First, the IJ must decide whether the noncitizen is eligible for cancellation under the relevant statutory criteria. Second, an IJ decides whether to exercise [her] discretion favorably and grant the noncitizen relief in the particular case.” *Wilkinson v. Garland*, 601 U.S. 209, 212-13 (2024).

At the first step, a petitioner must establish (1) he had been physically present in the United States for at least 10 years; (2) had a good moral character during that period; (3) was not convicted of a disqualifying offense; and (4) his removal would result in exceptional and extremely unusual hardship for a qualifying relative. *See* § 1229b(1)(A)-(D). The IJ found that Mr. Castaneda-Ramirez had not shown good moral character or exceptional hardship and therefore denied his application.

At the hearing before the IJ, Mr. Castaneda-Ramirez testified about hardship to his two qualifying relatives—United States citizen children, ages 14 and 9. The IJ found him to be a credible witness.

His older daughter, X.C., then in ninth grade, provided a letter describing the anguish she suffered from missing him. Mr. Castaneda-Ramirez testified she is healthy, gets decent grades, and goes to the gym to stay in shape. She lives with her mother,¹ who is employed and also receives help from her own mother. Mr. Castaneda-Ramirez's parents have helped X.C. adjust to life without her father. The IJ concluded that although X.C. has shown signs of rebellion and frustration at her father's absence, she was not experiencing exceptional and extremely unusual hardship.

The younger daughter, Y.C., was in third grade. The evidence showed she is healthy, gets decent grades, and is somewhat argumentative with classmates. She lives with her mother, who struggles a bit with her. Mr. Castaneda-Ramirez's parents and Y.C.'s mother receive help from their respective families in taking care of Y.C., who does not face significant mental or physical difficulties.

The IJ found that if Mr. Castaneda-Ramirez is removed to Mexico, he can continue to communicate with X.C. and Y.C. through letters, phone calls, social

¹ Although Mr. Castaneda-Ramirez's brief and his administrative filings occasionally refer to one mother of both daughters, and suggest they both reside with her, *see, e.g.*, Pet'r Opening Br. at 19; R., vol. 1 at 23, his testimony before the IJ, along with the other evidence, shows that each daughter has a separate mother and lives with her own mother. *See* R., vol. 1 at 238, 240, 249; vol. 2 at 325-26, 483.

media, and video. Both children, when they get older, should be able to visit him in Mexico.

The IJ concluded Mr. Castaneda-Ramirez did not meet his burden to show that his daughters would suffer exceptional and extremely unusual hardship if he is returned to Mexico. For this reason, and because he did not establish good moral character for the past 10 years,² the IJ denied his cancellation application. The IJ granted him voluntary departure.

2. U Visa Petition

To qualify for a U Visa, a noncitizen must demonstrate that (1) he suffered substantial physical or mental abuse from being a victim of certain enumerated types of criminal activity committed in the United States; (2) he has information about that criminal activity; and (3) a law enforcement official has certified that he has been, is being, or is likely to be helpful in the investigation or prosecution of the criminal activity. *See* 8 U.S.C. § 1101(a)(15)(U)(i)(I)–(IV).

The IJ declined to terminate removal proceedings based on Mr. Castaneda-Ramirez's pending petition for a U Visa. But she stated:

The court also considers the fact that [petitioner] has applied for a U visa. [Its status is] unclear [to] the court: [petitioner's] counsel indicates that this has been approved; the Department is arguing that it's not been approved. But it is, at least, a potential viable form of relief that may bring respondent back should he leave voluntarily to Mexico. If the visa is approved, it would be a way for him to come back.

² Because we do not resolve this case based on the moral character determination, we do not discuss in detail the facts underlying the IJ's resolution of that issue.

R., vol. 1 at 75.

B. *BIA Appeal*

On appeal, the BIA upheld the denial of cancellation. It agreed with the IJ that Mr. Castaneda-Ramirez had failed to show exceptional and extremely unusual hardship to a qualifying relative.

The BIA also denied a renewed request for termination due to the pending U Visa application. It noted that Mr. Castaneda-Ramirez had presented no new evidence on appeal concerning the application's status; the crimes on which his U Visa application relied dated from 2003 and 2007; his removal proceedings had been pending since December 22, 2022; his inadmissibility was not in dispute; and his cancellation application had been resolved. The BIA reinstated his application for voluntary departure.

II. DISCUSSION

“When, as here, a single BIA member issues a reasoned decision addressing a petitioner's arguments on appeal, we confine our review to the BIA's decision and will not address the IJ's decision except where the BIA has explicitly incorporated [her] reasoning.” *Miguel-Pena v. Garland*, 94 F.4th 1145, 1153 (10th Cir. 2024) (brackets, ellipsis, and internal quotation marks omitted). “[B]ut we are not precluded from consulting the IJ's more complete explanation of those same grounds” on which the Board based its decision. *Aguayo v. Garland*, 78 F.4th 1210, 1216 (10th Cir. 2023) (internal quotation marks omitted).

A. Cancellation of Removal

1. Legal Background on Hardship Determination

We lack jurisdiction to review certain denials of discretionary relief, *see* 8 U.S.C. § 1252(a)(2)(B)(i), but we retain jurisdiction to review questions of law, *see id.* § 1252(a)(2)(D). “[T]he application of the exceptional and extremely unusual hardship standard to a given set of facts is reviewable as a question of law under § 1252(a)(2)(D).” *Wilkinson*, 601 U.S. at 217. “Because this mixed question is primarily factual, that review is deferential.” *Id.* at 225; *see also Martinez v. Garland*, 98 F.4th 1018, 1021 (10th Cir. 2024) (“[W]e apply a deferential standard to review the BIA’s hardship determination.”).

“To meet [the hardship] standard, a noncitizen must demonstrate that a qualifying relative would suffer hardship that is substantially different from or beyond that which would ordinarily be expected to result from their removal, but need not show that such hardship would be unconscionable.” *Id.* at 215 (internal quotation marks omitted). The analysis should consider all hardship factors in the aggregate. *Id.*

2. Analysis

Mr. Castaneda-Ramirez raises five arguments. Each one fails.

First, he contends the BIA did not consider the hardship factors in the aggregate and failed to provide any reason for its hardship ruling. We disagree. The BIA adopted the IJ’s analysis and affirmed her decision. The IJ stated she had reviewed and considered all the exhibits. She discussed the hardship to both children

and stated, based on the totality of the evidence, that she could not find that Mr. Castaneda-Ramirez had met his hardship burden. The BIA reached the same conclusion “[b]ased on the totality of the evidence.” R., vol. 1 at 65. It explained, “While we do not diminish the emotional and financial hardship the respondent’s family will suffer upon his removal, we agree with the [IJ] that the hardship does not rise to the level of exceptional and extremely unusual hardship as required under law.” R., vol. 1 at 3. “The BIA is not required to write an exegesis on every contention. What is required is that it consider the issues raised, and announce its decision in terms sufficient to enable a reviewing court to perceive that it has heard and thought and not merely reacted.” *Maatougui v. Holder*, 738 F.3d 1230, 1242-43 (10th Cir. 2013) (brackets and internal quotation marks omitted). The BIA did so.

Second, Mr. Castaneda-Ramirez argues the BIA failed to consider all the hardship factors articulated in *Matter of Anderson*, 16 I. & N. Dec. 596 (BIA 1978). But the BIA has explained that it need not consider all of the *Anderson* factors in a cancellation-of-removal case. Instead, the essential relevant factors are “the ages, health, and circumstances of [the] qualifying . . . United States citizen relatives,” *In re Monreal-Aguinaga*, 23 I. & N. Dec. 56, 63 (BIA 2001), which the IJ and BIA did consider. “Factors relating to the applicant himself . . . can only be considered insofar as they may affect the hardship to a qualifying relative.” *Id.* The IJ considered the relevant factors, and the BIA adopted her hardship analysis. We discern no error under *Anderson*.

Third, and relatedly, he contends we should direct the BIA to apply all of the hardship factors identified in *Monreal-Aguinaga*; *In re Andazola-Rivas*, 23 I. & N. Dec. 319 (BIA 2002), and *In re Gonzalez Recinas*, 23 I. & N. Dec. (BIA 2002). But “each case must be assessed and decided on its own facts.” *Monreal-Aguinaga*, 23 I. & N. Dec. at 63. And we do not require the agency to discuss every piece of evidence. *See Maatougui*, 738 F.3d at 1242-43.

Fourth, Mr. Castaneda-Ramirez contends the agency erred by failing to consider harm to his citizen brother, undocumented parents, his daughters’ mothers, and his brothers. The brothers are Deferred Action for Childhood Arrivals recipients. But he fails to show he made this argument to the BIA. *See R.*, vol. 1 at 19-37; 53-54 (notice of appeal and BIA brief). A noncitizen must “exhaus[t] all administrative remedies available to the alien as of right.” 8 U.S.C. § 1252(d)(1). Although § 1252(d)(1) is a non-jurisdictional claims processing rule, *see Santos-Zacaria v. Garland*, 598 U.S. 411, 423 (2023), this court has discretion to consider sua sponte whether a petitioner failed to exhaust an argument, *see Miguel-Pena*, 94 F.4th at 1158. Mr. Castaneda-Ramirez’s argument is fact-specific and is not well developed in his opening brief. *See Pet’r Opening Br.* at 19-20. We decline to consider it.

Fifth, to the extent Mr. Castaneda-Ramirez raises a cognizable legal challenge to the BIA’s determination that the evidence did not rise to the level of exceptional and extremely unusual hardship, he fails to show a basis for reversal under our deferential standard of review. *See, e.g., Martinez*, 98 F.4th at 1021 (stating

“economic detriment and diminished educational opportunities are insufficient” to meet the high standard associated with exceptional and extremely unusual hardship).³

B. Request to Terminate due to U Visa Application

The IJ or the BIA may grant discretionary termination based on a pending U Visa application when certain regulatory requirements are met, *see* 8 C.F.R. § 1003.1(m)(1)(ii), including a showing that the noncitizen is *prima facie* eligible for relief from the U.S. Citizenship and Immigration Services (USCIS). *See id.*

§ 1003.1(m)(1)(ii)(B). In making this decision, the BIA “shall consider the reason termination is sought and the basis for any opposition to termination.” *Id.*

§ 1003.1(m)(1)(ii). Mr. Castaneda-Ramirez makes five unsuccessful arguments that the BIA abused its discretion by denying his request to terminate proceedings.

First, he contends the BIA factually erred by stating he sought discretionary termination based on his application of July 5, 2023, when in fact he sought termination based on his December 2023 application. Mr. Castaneda-Ramirez filed

³ Mr. Castaneda-Ramirez asserts various challenges to the IJ’s finding that he failed to satisfy the good moral character requirement. Although the BIA discussed the IJ’s moral character finding, it ultimately affirmed the IJ’s decision based on Mr. Castaneda-Ramirez’s failure to “meet his burden of proof to establish exceptional and extremely unusual hardship, *which is dispositive.*” R., vol. 1 at 4 (emphasis added). In cases involving a single Board member’s brief order, “we limit our review to the grounds for the BIA’s decision.” *Escobar-Hernandez v. Barr*, 940 F.3d 1358, 1360 (10th Cir. 2019). Here, the BIA relied on the hardship determination. But even if the BIA relied independently on both the hardship and good moral character factors, given our affirmance of the BIA’s dispositive hardship determination, we would not need to address the moral character issue. *See Berdiev v. Garland*, 13 F.4th 1125, 1137–38 (10th Cir. 2021) (where the Board relies on two independent, valid grounds to deny relief, we may deny review based on either ground). We therefore decline to address the “good moral character” issue.

four separate U Visa applications. The first one lacked supporting documents, but the last three, all identical, included them. He fails to show how the BIA's alleged error in referring to the wrong application prejudiced him.

Second, Mr. Castaneda-Ramirez argues the IJ failed to adequately explain her denial of his request to terminate proceedings and misstated petitioner's position concerning his application. He raised these alleged errors to the BIA and requested it grant termination. The BIA declined. The criteria for the IJ and the BIA to grant termination are essentially the same. *Compare* 8 C.F.R. § 1003.1(m)(1)(ii) *with id.* § 1003.18(d)(1)(ii). The BIA adequately explained its reasoning for denying termination.

Third, Mr. Castaneda-Ramirez contends the BIA should not have relied on the fact that no new evidence had been submitted on appeal concerning his application, and he argues it should have remanded to the IJ if it believed further fact-finding was needed. But it was his responsibility to alert the BIA if he had new evidence to support his application. He fails to show he did so.

Fourth, Mr. Castaneda-Ramirez argues that even though his U Visa has not yet been granted, he received a "bona fide determination" from USCIS in response to his December 2023 U Visa application and was granted "deferred action" based on a showing of "prima facie eligibility," regulatory terms used in the U Visa application

context that would support Mr. Castaneda's motion to terminate proceedings.⁴ But he relies on receipt notices he received from USCIS, which state that USCIS received and was processing his U Visa form. The notices do not grant any immigration status or benefit, nor do they evidence that the U Visa application is still pending. The BIA did not abuse its discretion by declining to grant discretionary termination based on these notices.

Fifth, although Mr. Castaneda-Ramirez asserts that DHS incorrectly told the IJ that his application had been denied, Mr. Castaneda-Ramirez has not shown the BIA relied on that alleged representation.

In sum, Mr. Castaneda-Ramirez has failed to show that the BIA abused its discretion by declining to terminate the removal proceedings.

III. CONCLUSION

We deny the petition for review.

Entered for the Court

Scott M. Matheson, Jr.
Circuit Judge

⁴ See 8 C.F.R. § 1003.1(m)(1)(ii)(B), (C); USCIS Policy Manual, *Chapter 5 – Bona Fide Determination Process*, <https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5>.