

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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

ALEJANDRO MEDORIO-VILLEGAS,

Petitioner,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 20-73411

Agency No.
A205-931-169

MEMORANDUM*

ALEJANDRO MEDORIO-VILLEGAS,

Petitioner,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 22-1483

Agency No.
A205-931-169

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

Submitted July 9, 2026**
San Francisco, California

* 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).

Before: PAEZ, TALLMAN, and BENNETT, Circuit Judges.

Alejandro Medorio-Villegas petitions for review of two orders of the Board of Immigration Appeals (“BIA”).¹ In Petition No. 20-73411, Medorio-Villegas seeks review of the BIA’s order affirming the Immigration Judge’s (“IJ”) denial of cancellation of removal under 8 U.S.C. § 1229b(b). In Petition No. 22-1483, Medorio-Villegas seeks review of the BIA’s order denying his motion to reopen his cancellation proceedings.

We review de novo questions of law and review denials of reopening for abuse of discretion. *Lemus-Escobar v. Bondi*, 158 F.4th 944, 952 (9th Cir. 2025). We dismiss petition No. 20-73411 for lack of jurisdiction, grant petition No. 22-1483, and remand.

1. Medorio-Villegas argues that the agency applied the wrong legal standard in determining his eligibility for cancellation of removal by failing to aggregate the cumulative hardship that his deportation would cause to his qualifying relatives. We have jurisdiction to review the eligibility determination and whether the agency applied the right legal standard. *Lemus-Escobar*, 158 F.4th at 953–54, 965. “But we need not, and do not, reach that question, because we lack jurisdiction to review the BIA’s alternative, dispositive holding that it would deny . . . relief as a matter of

¹ We consolidated the two petitions for briefing and disposition and we refer to each petition by its case number in this court.

discretion.” *See id.* at 966.

While we retain jurisdiction to review legal arguments directed at the discretionary determination, *see id.* at 965, Medorio-Villegas does not clearly raise such an argument. We therefore dismiss petition No. 20-73411.

2. Medorio-Villegas sought reopening to introduce: (1) new evidence of the hardship that his deportation would cause to him and his relatives, which came to light after the 2017 IJ hearing, and which primarily concerns the deterioration of his and his family’s health; and (2) a subset of that new evidence limited to his daughter Kathalee’s mental health treatment, under a claim of ineffective assistance of counsel (“IAC”). Because we conclude that the agency must reconsider the former primary set of evidence, we do not address whether the agency erred in denying the IAC claim as to the included subset.

The BIA denied reopening because it determined that Medorio-Villegas’s new hardship evidence was relevant only to his statutory eligibility for cancellation, and thus he “[did] not present any new, material evidence bearing on the discretionary denial of his application.” Medorio-Villegas argues that this was legal error because both statutory eligibility and hardship are relevant to the agency’s discretionary determination. The government argues that we lack jurisdiction to review this denial of reopening because the agency invoked its discretion and any legal argument is not colorable.

We have jurisdiction. This petition presents a legal question—the relevance of hardship evidence—and even as to discretionary determinations, “we always retain jurisdiction to review constitutional claims and questions of law.” *Lemus-Escobar*, 158 F.4th at 965.

Medorio-Villegas’s legal argument has merit. Hardship evidence is directly “relevant to the exercise of discretion.” *Matter of C-V-T-*, 22 I. & N. Dec. 7, 11 (B.I.A. 1998). Under BIA precedent, the evidence relevant to an exercise of discretion as to cancellation of removal includes “evidence of hardship to the respondent” and to all relatives. *Id.*

The agency’s rejection of the new hardship evidence is not justified by the fact that it is unrelated to Medorio-Villegas’s prior convictions and unlawful entries. Such unfavorable considerations “do[] not *preclude* a respondent from presenting evidence in support of a favorable exercise of discretion.” *Matter of Marin*, 16 I. & N. Dec. 581, 584 (B.I.A. 1978) (emphasis added). In other words, where the petitioner cannot change the facts weighing *against* a favorable exercise, new evidence *supporting* a favorable exercise—such as hardship—may still be relevant. *Matter of C-V-T-*, 22 I. & N. Dec. at 11–12 (“[A]s the negative factors grow more serious, it becomes incumbent upon the alien to introduce additional offsetting favorable evidence . . .”).

The government argues that the agency did not err because it is not required to consider “any particular factor” in making its discretionary determination. *Dominguez-Candelaria v. Bondi*, No. 25-1042, 2026 WL 446409, at *2 (9th Cir. Feb. 17, 2026). But Medorio-Villegas does not challenge the omission of any analysis or factor. Rather, he challenges an affirmative misstatement of the law: that hardship evidence is irrelevant. There is a “meaningful standard” to evaluate this claim, *id.* at *1 (quoting *Ruiz v. Bondi*, 163 F.4th 586, 598–99 (9th Cir. 2025))—namely, the BIA’s own precedent, *see Matter of C-V-T-*, 22 I. & N. Dec. at 11. And notwithstanding the inherent flexibility of the discretionary determination, the BIA has emphasized the importance of a baseline set of “factors deemed *relevant* to the decision-making process,” as that minimum shared framework provides for “the desired equitable availability of discretionary relief.” *Matter of Marin*, 16 I. & N. Dec. at 585–86 (emphasis added).

Accordingly, the BIA erred in rejecting Medorio-Villegas’s new hardship evidence as irrelevant. On remand, the agency must consider the evidence as it pertains to both statutory eligibility and the discretionary determination.

Accordingly, we **DISMISS** Petition No. 20-73411, **GRANT** Petition No. 22-1483, and **REMAND**.²

² The motion to stay removal, No. 20-73411, Dkt. 1, is GRANTED.