

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 2 2026

FOR THE NINTH CIRCUIT

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

DEMETRIO MARTIN URIAS-GAXIOLA,

No. 22-1474

Petitioner,

Agency No.

A209-808-635

v.

MEMORANDUM*

TODD BLANCHE, Attorney General,

Respondent.

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

Argued and Submitted May 18, 2026
Phoenix, Arizona

Before: BERZON, M. SMITH, and HURWITZ, Circuit Judges.

Demetrio Martin Urias-Gaxiola, a native and citizen of Mexico, petitions for review of a Board of Immigration Appeals (“BIA”) order (1) denying his application for cancellation of removal, (2) rejecting his due process challenge to the fairness of his hearing before an immigration judge (“IJ”), (3) affirming the IJ’s denial of his motion to amend the pleadings, and (4) denying his motion to remand

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

to the IJ for the purpose of amending his pleadings. We address the first two issues in this memorandum disposition and the latter two issues in a concurrently filed opinion.

1. To qualify for cancellation of removal, Urias-Gaxiola must “establish[] that removal would result in exceptional and extremely unusual hardship to” his U.S. citizen daughters. 8 U.S.C. § 1229b(b)(1)(D). Under this standard, the asserted hardship “must be out of the ordinary and exceedingly uncommon.” *Gonzalez-Juarez v. Bondi*, 137 F.4th 996, 1006 (9th Cir. 2025). We review the BIA’s adverse hardship determination for substantial evidence. *Id.* at 1005. Substantial evidence supports the agency’s determination.

(a) The record does not compel the conclusion that Urias-Gaxiola’s qualifying daughters would suffer hardship “substantially different from, or beyond, that which would normally be expected from the deportation of a close family member.” *Wilkinson v. Garland*, 601 U.S. 209, 222 (2024) (citation modified). The BIA reasonably determined that the girls’ anxiety and depression, as well as anticipated setbacks in their educational opportunities, were typical of the hardships experienced by relatives of removed individuals. *See Cabrera-Alvarez v. Gonzales*, 423 F.3d 1006, 1013 (9th Cir. 2005). Urias-Gaxiola’s expert witness, Dr. Parra, testified that the girls were seriously depressed and anxious, but she also recognized that these symptoms are common to family members of

individuals being removed and could not estimate the relative severity of the girls' symptoms among those similarly situated.

(b) The BIA acknowledged that Urias-Gaxiola's second-eldest daughter might have "fewer educational opportunities" if she were to accompany him to Mexico and that she could face "potential educational and emotional hardships" if she were to remain in the United States after Urias-Gaxiola's removal.

Nonetheless, the BIA reasonably concluded that any educational or other hardship "related to the care of [Urias-Gaxiola's] eldest daughter" was not substantially beyond the norm. Further, Urias-Gaxiola does not challenge the agency's finding that his second-eldest daughter "would be able to return to the United States on her own in the near future" if she were to accompany him to Mexico.

2. To prevail on his due process claim, Urias-Gaxiola must show (1) that "the proceeding was so fundamentally unfair that [he] was prevented from reasonably presenting his case" and (2) that this due process violation prejudiced him, "which means that the outcome of the proceeding may have been affected by the alleged violation." *Colmenar v. Immigr. & Naturalization Serv.*, 210 F.3d 967, 971 (9th Cir. 2000) (citation modified). We review the denial of a due process claim de novo. *Id.*

We reject the due process claim. The IJ's questioning of Dr. Parra about her personal experiences with grief was inappropriate and suggests improper

“prejudgment about the witness’s credibility or the probative value of the testimony.” *Zolotukhin v. Gonzales*, 417 F.3d 1073, 1075 (9th Cir. 2005) (citation modified). But we need not decide whether the IJ violated due process, as Urias-Gaxiola was not prejudiced by the IJ’s decision to give Dr. Parra’s testimony “very little weight.”

Dr. Parra’s psychological reports, which are in the record, are consistent with her testimony that Urias-Gaxiola’s removal would cause his daughters emotional distress but do not establish that their distress is exceptional and extremely unusual. And the IJ accorded “great weight” to the second-eldest daughter’s testimony about her psychological and physiological symptoms—the same subjects of Dr. Parra’s testimony—but determined that these symptoms did not amount to exceptional hardship. Likewise, the BIA accepted that the daughters had “mental health concerns” and “were suffering from anxiety and depression” but determined that such hardship would not be “substantially beyond that typically caused by a parent’s removal.” Thus, Dr. Parra’s testimony, even if given substantial weight, would not have affected the IJ’s rejection of Urias-Gaxiola’s cancellation claim.

3. We grant the petition as to the motion to amend the pleadings for the reasons stated in our concurrently filed opinion.

PETITION GRANTED IN PART, DENIED IN PART; REMANDED.