

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 28 2026

FOR THE NINTH CIRCUIT

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

JUAN DE DIOS ARAUJO-PEREZ,

Petitioner,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-7155

Agency No.
A215-536-674

MEMORANDUM*

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

Submitted October 26, 2026**
Phoenix, Arizona

Before: GRABER, HURWITZ, and BADE, Circuit Judges.

Petitioner Juan De Dios Araujo-Perez is a native and citizen of Mexico. He timely petitions for review of the denial of his motion to reopen by the Board of Immigration Appeals (“BIA”). We have jurisdiction under 8 U.S.C. § 1252(a)(1). We review the denial of a motion to reopen for abuse of discretion and “reverse

* 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).

only if the [BIA] acted arbitrarily, irrationally, or contrary to law.” Mohammed v. Gonzales, 400 F.3d 785, 791 (9th Cir. 2005). Failing to “consider and address in its entirety the evidence submitted by a petitioner” is an abuse of discretion. Franco-Rosendo v. Gonzales, 454 F.3d 965, 966 (9th Cir. 2006) (citation omitted). The BIA is also required to weigh “both favorable and unfavorable factors by evaluating all of them, assigning weight or importance to each one separately and then to all of them cumulatively.” Id. at 967 (citation omitted). Applying those standards, we grant the petition and remand.

Petitioner entered the United States without inspection in 2001. In 2018, after being served with a Notice to Appear, Petitioner sought cancellation of removal. In 2019, an immigration judge denied that request and, in 2025, the BIA dismissed Petitioner’s appeal. That decision is not before us.

Thereafter, Petitioner moved to reopen proceedings, seeking T-visa status and, separately, asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). Petitioner argued that new evidence, unavailable at his prior hearing, materially affected his eligibility for T-visa relief relating to alleged labor trafficking in Spokane in 2022. Petitioner also argued that his cousin’s murder in Mexico by a cartel, which occurred after the BIA issued its decision in 2025, materially affected his eligibility for asylum, withholding of removal, and relief under CAT.

1. With respect to the T-visa claim, the BIA ruled that Petitioner “has not submitted sufficient evidence to establish his *prima facie* [case], *i.e.*, a ‘reasonable likelihood’ of, eligibility for a T visa.” The BIA gave two reasons for that conclusion, each of which was an abuse of its discretion.

(a) First, the BIA stated that, “[t]he record does not contain a receipt notice from [U.S. Citizenship and Immigration Services (“USCIS”)]” evidencing that the government received Petitioner’s application for a T-visa. But Petitioner’s motion explained that USCIS usually takes up to 120 days to issue a receipt notice, which exceeds the 90-day deadline to file a motion to reopen. See 8 C.F.R.

§ 1003.2(c)(2). Therefore, Petitioner explained, a substitute form of proof was required in order for him to file the motion to reopen on time. He submitted a United States Postal Service delivery confirmation as proof that he had filed the application. The BIA failed to explain why that official delivery confirmation was insufficient to show that the government received the T-visa application.

(b) Second, the BIA stated that Petitioner failed to submit “evidence he cooperated with any reasonable requests for assistance from law enforcement relating to the alleged trafficking.” That assertion is contrary to the record. Petitioner did submit evidence of cooperation, including but not limited to checking the “Yes” box on his T-visa application that “I have cooperated with reasonable requests for assistance from law enforcement.”

2. Regarding his claim for asylum, withholding of removal, and relief under CAT, the BIA asserted (a) that Petitioner “did not present evidence” that his cousin was killed and that Petitioner himself would be targeted by gang members and (b) that he failed to identify what relief he sought. Each reason is counter to the record and, therefore, an abuse of discretion.

(a) Petitioner submitted a sworn declaration describing the killing of his cousin and explaining that, as a family member, he would face the same threats if returned to Mexico. See Limsico v. INS, 951 F.2d 210, 213 (9th Cir. 1991) (explaining that statements presented in affidavits supporting a motion to reopen must be accepted as true unless they are inherently unbelievable).

(b) Petitioner’s motion also clearly identified the relief that he sought and why: “[Petitioner] has a well-founded fear of future persecution since his cousin was recently murdered in the hands of the cartel. . . . [Petitioner’s] current circumstances render him eligible for the relief of asylum and withholding of removal as well as CAT relief.”

PETITION GRANTED; REMANDED.¹

¹ The Motion to Stay Removal, Dkt. No. 3, and the Supplemental Motion to Stay Removal, Dkt. No. 13, are GRANTED.