

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-3433

GABYARGELIA MONTIEL-PEREZ;
RAMOS PEREZ-FLORES,
Petitioners

v.

ATTORNEY GENERAL UNITED STATES OF AMERICA

On Petition for Review of an Order of the Board of Immigration Appeals
Immigration Judge Shana W. Chen, Nos. A201-516-890 & A201-516-891

Before: KRAUSE, PORTER, AND AMBRO, *Circuit Judges*
Submitted: Sept. 24, 2026; Filed: Sept. 25, 2026

NONPRECEDENTIAL OPINION*

AMBRO, *Circuit Judge*

Gabyargelia Montiel-Perez (“Montiel-Perez”) and Ramos Perez-Flores (“Perez-Flores,” and together with Montiel-Perez, the “Petitioners”) petition for review of an order of the Board of Immigration Appeals (“BIA”) affirming the denial of their application for cancellation of removal. For the reasons that follow, we must deny their petition.

I. BACKGROUND

Petitioners are married citizens of Mexico who entered the United States without inspection in 2006. They are the parents of two U.S. citizen children with extensively

* This disposition is not an opinion of the full Court and, under I.O.P. 5.7, is not binding precedent.

documented developmental disabilities: Keydeer and Axel. On March 4, 2019, Montiel-Perez filed a Form I-589 Application for Asylum, Withholding of Removal and Protection under the Convention Against Torture, including Perez-Flores in her application.

In response to that application, the Department of Homeland Security (“DHS”) filed Notices to Appear (each, an “NTA”) charging Petitioners with removability, as aliens present without being admitted or paroled, under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(6)(A)(i). They appeared for a hearing before the Immigration Court in Newark, New Jersey, on July 9, 2019. And in a written, counseled pleading, they conceded that they were removable as charged.

In an effort to obtain relief, Petitioners filed an application for cancellation of removal under 8 U.S.C. § 1229b(b)(1), contending that their removal would result in exceptional and extremely unusual hardship to Keydeer and Axel. On April 20, 2021, Petitioners appeared, with counsel, for a merits hearing. Just prior to that hearing, they filed numerous exhibits and an unopposed motion to accept late-filed evidence in the form of numerous exhibits. The Immigration Judge (“IJ”) granted their motion, and they testified under oath in support of their applications.¹

On June 28, 2021, the IJ denied Petitioners’ applications. Among other things, the IJ concluded they failed to demonstrate good moral character for not explaining why they had falsely filed taxes as a married couple prior to their marriage. Additionally, the IJ

¹ Before testifying, Montiel-Perez formally withdrew her Form I-589 application and elected to proceed exclusively on her application for cancellation of removal.

concluded Petitioners had failed to demonstrate removal would result in “exceptional and extremely unusual hardship” to their citizen children.

More specifically, the IJ made the following findings with respect to each child. In 2017, Keydeer was diagnosed with autism, ADHD, and Developmental Coordination Disorder. However, none of those conditions were “serious” in his case. He received various special education services from his school through an early intervention program. His accommodations exceeded his needs, and there was insufficient evidence to show that the services Keydeer received were not reasonably available in Mexico.

Axel is enrolled in an early intervention program. He was referred to the program by a pediatrician who noted concerns as to his speech and language development. He does not suffer from any “serious” medical conditions, and there is insufficient evidence to show that any of the services he needs are not reasonably available in Mexico.

On November 18, 2025, the BIA adopted and affirmed the IJ’s hardship determination in connection with Keydeer and Axel. As a result, it dismissed Petitioners’ appeal. They timely sought review in our Court and filed a motion to stay removal pending a decision on their petition for review.

II. STANDARD OF REVIEW²

Where “the BIA affirms the IJ’s determinations without expressly rejecting any of its findings and only adds its own gloss to the analysis, we may review both the BIA’s and the IJ’s decisions.” *Doe v. Att’y Gen.*, 956 F.3d 135, 141 (3d Cir. 2020). But “Congress envisioned a ‘minimal’ supervisory role for courts” in connection with cancellation-of-removal proceedings. *Wilkinson v. Att’y Gen.*, 131 F.4th 134, 142 (3d Cir. 2025). Indeed, we lack jurisdiction to review findings of fact in those proceedings. *Id.* (citing 8 U.S.C. § 1252(a)(2)(B)(i)). And we review for substantial evidence whether those facts demonstrate “exceptional and extremely unusual hardship” for purposes of granting relief. *Id.* In the end, we will deny a petition for review under this deferential standard unless “any reasonable adjudicator would be compelled to conclude to the contrary.” *Id.* (quoting *Nasrallah v. Barr*, 590 U.S. 573, 584 (2020)).

III. DISCUSSION

To be statutorily eligible for cancellation of removal, applicants must demonstrate, among other things, that “removal would result in exceptional and extremely unusual hardship to the alien’s spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.” 8 U.S.C. § 1229b(b)(1)(D).³ This

² The BIA had jurisdiction under 8 C.F.R. § 1003.1(b)(3). Its decision constitutes a final order of removal. 8 U.S.C. § 1101(a)(47). We have jurisdiction to review a final order of removal under 8 U.S.C. § 1252(a)(1).

³ Additionally, an applicant must demonstrate that he or she has no disqualifying convictions, good moral character, and ten years of continuous physical presence preceding

standard “require[s] a showing ‘substantially beyond the ordinary hardship that would be expected when a close family member leaves this country.’” *Wilkinson*, 131 F.4th at 142 (quoting *In re Monreal-Aguinaga*, 23 I. & N. Dec. 56, 62 (BIA 2001)). Moreover, although the degree of hardship need not be “unconscionable,” relief is limited to “truly exceptional situations.” *Id.* (internal quotation marks omitted) (quoting *Monreal-Aguinaga*, 23 I. & N. Dec. at 61-62).

“In evaluating the degree of hardship, courts and the agency consider the ‘ages, health, and circumstances’ of qualifying relatives.” *Id.* at 143 (quoting *Monreal-Aguinaga*, 23 I. & N. Dec. at 63). “The focus is on hardship to the relative, not to the petitioner.” *Id.* “[A]n applicant with ‘a qualifying child with very serious health issues, or compelling special needs in school[,]’ could have a strong case.” *Id.* (quoting *Monreal-Aguinaga*, 23 I. & N. Dec. at 63). However, where applicants allege exceptional and extremely unusual hardship based on a qualifying relative’s medical condition or special needs in school, they must show that the qualifying relative’s condition or needs cannot be cared for or met in

the date of the application. 8 U.S.C. § 1252b(b)(1)(A)-(C). The IJ, for her part, concluded that Petitioners had no disqualifying convictions and had continuous physical presence, but they failed to demonstrate good moral character because they could not explain why they had filed taxes as a married couple prior to their marriage. However, the BIA adopted the hardship finding and expressly declined to consider any other issues. And though Petitioners vigorously challenge the IJ’s adverse moral character and discretionary analyses, we will not consider the IJ’s reasoning unless the BIA has adopted or relied on it. *Saravia v. Att’y Gen.*, 905 F.3d 729, 734 & n.14 (3d Cir. 2018); *Abdulai v. Ashcroft*, 239 F.3d 542, 549 n.2 (3d Cir. 2001), *superseded by statute on other grounds*, REAL ID Act of 2005, Pub. L. No. 109-13, Div. B, tit. 1, § 101, 119 Stat. 302.

the country of removal. *Matter of J-J-G-*, 27 I. & N. Dec. 808, 811-12 (BIA 2020).⁴ And they must satisfy this burden through credible, persuasive testimony and other corroborating evidence. *See* 8 U.S.C. § 1229a(c)(4)(B).

The problem is that Petitioners did not provide sufficient evidence with respect to the conditions or needs of Keydeer and Axel. Regarding the availability of medical and special education services, Petitioners submitted inconsistent testimony,⁵ a letter of suspect relevance,⁶ and a dated research report.⁷ The IJ thus concluded there was insufficient evidence to establish that any of the medical or special education services needed by Keydeer and Axel are unavailable in Mexico. And we lack jurisdiction to review those findings of fact. *Wilkinson*, 131 F.4th at 142. Accordingly, we must deny the petition before us. *See, e.g., Matter of J-J-G-*, 27 I. & N. Dec. at 811 (“[T]o the extent that a claim is based

⁴ To be sure, we have explained that a “lower standard of living or adverse country conditions in the country of return . . . generally will be insufficient in themselves to support a finding of exceptional and extremely unusual hardship.” *Wilkinson*, 131 F.4th at 143 (quoting *Monreal-Aguinaga*, 23 I. & N. Dec. at 63-64).

⁵ For example, Montiel-Perez initially testified that there are no special education programs that could provide similar services to Keydeer in Mexico. Later, she explained that those services may exist in Mexico but would be costly and administered more frequently than in America. Finally, Montiel-Perez testified that she does not “really know” whether similar services are available.

⁶ The letter indicated, among other things, that developmental therapies are inconsistently administered, subject to high demand, and generally costly in Zacatelco, Mexico. But the IJ declined to give it significant weight because Petitioners had not confirmed they would even live in that city.

⁷ The report indicated that only three percent of autistic children in Mexico received special education services. However, the IJ declined to give the report significant weight because it was published more than twelve years before Petitioners’ merits hearing.

on the health of a qualifying relative, an applicant needs to establish that . . . adequate medical care for the claimed condition is not reasonably available in that country.”); *Wilkinson*, 131 F.4th at 146 (denying a petition for review of a hardship determination after concluding there was insufficient “professional or medical evidence” to establish that “adequate care was not available in Mexico”).

* * * * *

Petitioners failed to demonstrate that their removal would result in exceptional and extremely unusual hardship to a qualifying relative. As a result, we deny their petition for review.