[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

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No. 21-10798

Non-Argument Calendar

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ALBERTO HERNANDEZ-GUTIERREZ,

Petitioner,

versus

U.S. ATTORNEY GENERAL,

Respondent.

____

Petition for Review of a Decision of the
Board of Immigration Appeals
Agency No. A205-392-494

____

Before ROSENBAUM, JILL PRYOR, and GRANT, Circuit Judges.

PER CURIAM:

Alberto Hernandez-Gutierrez seeks review of the order of the Board of Immigration Appeals ("BIA") affirming the Immigration Judge's ("IJ") denial of his application for cancellation of removal. Because we lack jurisdiction to review the BIA's decision, we dismiss Hernandez-Gutierrez's petition for review.

Hernandez-Gutierrez, a native and citizen of Mexico, entered the United States in 2000 without inspection. In 2012 the Department of Homeland Security issued him a notice to appear, charging him as removable under the Immigration and Nationality Act ("INA") as a noncitizen present in the United States without having been admitted or paroled. *See* 8 U.S.C. § 1182(a)(6)(A)(i). Hernandez-Gutierrez conceded removability but applied for cancellation of removal pursuant to the INA, 8 U.S.C. § 1229b(b)(1).

The Attorney General has the discretion to cancel the removal of certain noncitizens who establish that: (1) they have been continuously physically present in the United States for at least ten years; (2) they have been "person[s] of good moral character" while present in the United States; (3) they have not been convicted of any specified criminal offenses; and (4) their "removal would result in exceptional and extremely unusual hardship" to a qualifying relative who is a U.S. citizen or lawful permanent resident. 8 U.S.C. § 1229b(b)(1). Hernandez-Gutierrez asserted that he met all four of

these requirements. As to the fourth requirement, Hernandez-Gutierrez claimed that his removal would result in exceptional and extremely unusual hardship to his children, who are United States citizens. He elaborated at a hearing before an IJ and in supporting documentation, explaining that his income almost exclusively supported his 3-year-old biological child, his 12- and 16-year-old stepchildren (one of whom had asthma), and his wife, who was limited in her ability to work due to her posttraumatic stress disorder and major depressive disorder.

The IJ denied Hernandez-Gutierrez's application for cancellation of removal, concluding, in relevant part, that Hernandez-Gutierrez failed to demonstrate exceptional and extremely unusual hardship to his children if he were ordered removed. Hernandez-Gutierrez appealed the IJ's decision to the BIA, and the BIA adopted and affirmed the IJ's decision as to Hernandez-Gutierrez's failure to show that his children would experience exceptional and extremely unusual hardship upon his return to Mexico. Hernandez-Gutierrez petitioned this Court for review.

We review the BIA's decision as the final agency decision, and we review the IJ's decision as well to the extent that the BIA expressly adopts or agrees with it. *Gonzalez v. U.S. Att'y Gen.*, 820 F.3d 399, 403 (11th Cir. 2016). We generally lack jurisdiction to review the denial of certain forms of discretionary relief, including the Attorney General's decision to award or deny a noncitizen cancellation of removal. *See* 8 U.S.C. § 1252(a)(2)(B)(i). And though we retain jurisdiction to review "constitutional claims or

questions of law" raised in a petition for review, *id.* § 1252(a)(2)(D), the scope of that jurisdiction extends only to genuine questions of law and colorable constitutional claims. *Arias v. U.S. Att'y Gen.,* 482 F.3d 1281, 1284 & n. 2 (11th Cir. 2007). Abuse of discretion arguments cloaked in constitutional or legal language, as well as challenges to the evidentiary basis for a factual finding, are not sufficient to invoke our jurisdiction. *Id.* at 1284; *see Patel v. Garland*, 142 S. Ct. 1614, 1627 (2022) (holding that "[f]ederal courts lack jurisdiction to review facts found as part of discretionary-relief proceedings under . . . the . . . provisions enumerated in § 1252(a)(2)(B)(i)," one of which is cancellation of removal).

Hernandez-Gutierrez argues that the BIA and IJ improperly weighed the facts in finding that his United States citizen children would not experience exceptional and extremely unusual hardship if he were removed to Mexico. He emphasizes that he is his children's primary financial provider. He argues that if he were removed to Mexico, his wife would be unable to care for the children adequately, resulting in severe financial and emotional hardship for the family. The government contends that we should dismiss the petition for review because we lack jurisdiction to review the BIA's discretionary determination regarding hardship. We are bound to agree. *See Patel*, 142 S. Ct. at 1627; *Arias*, 482 F.3d at 1284 & n.2. In the absence of jurisdiction, we must dismiss Hernandez-Gutierrez's petition for review.

PETITION DISMISSED.