



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: H [REDACTED]-C [REDACTED], R [REDACTED]... A [REDACTED]-830

Date of this notice: 12/7/2018

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Adkins-Blanch, Charles K.
Snow, Thomas G
Mann, Ana

Userteam: Docket

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Falls Church, Virginia 22041

File: A █████ -830 – Denver, CO

Date:

DEC - 7 2019

In re: R █████ H █████ -C █████

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Sarah A. Logan, Esquire

ON BEHALF OF DHS: Geoffrey D. Rieman
Assistant Chief Counsel

APPLICATION: Cancellation of removal

The respondent, a native and citizen of Mexico, appeals from the September 28, 2017, decision of the Immigration Judge denying the application for cancellation of removal under section 240A(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b), and granting a period of voluntary departure under section 240B of the Act, 8 U.S.C. § 1229c. The appeal will be sustained, and the record will be remanded as set forth below.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the “clearly erroneous” standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The Immigration Judge concluded that the respondent had not established the requisite exceptional and extremely unusual hardship to his United States citizen child. The respondent’s daughter, 15 years of age at the time of the hearing, has been treated for a generalized anxiety disorder, social phobia and a dependent personality disorder (IJ at 4; Tr. at 57, 59). She relies on her family to support her and is particularly close to her mother and her brother. The respondent testified his wife and child would go to Mexico with him, even though there are no mental health treatment facilities in his town (IJ at 6; Tr. at 30-31).

We acknowledge the well-reasoned decision of the Immigration Judge, who considered the counseling notes pertaining to the respondent’s child to support his finding that the child is getting some benefits from her participation in group therapy. However, the evaluation provided by the psychologist expert witness demonstrates a more serious picture of the child’s mental health. In particular, the expert witness indicated that the respondent’s daughter needs greater medical intervention as her emotional struggles and mental health issues have worsened over time (Exh. 2, Tab M, page 57-59). He further opined that either moving to Mexico or staying in the United States without the respondent would destabilize her (Exh. 2, Tab M, page 59).

To determine whether the respondent’s removal would result in exceptional and extremely unusual hardship to a qualifying relative, we examine the hardship factors in their totality. *Matter of Recinas*, 23 I&N Dec. 467, 472 (BIA 2002). Having reviewed de novo the factors relevant to

Cite as: R-H-C-, AXXX XXX 830 (BIA Dec. 7, 2018)

hardship in their totality, we conclude that the respondent has established the requisite exceptional and extremely unusual hardship to his qualifying relative. Accordingly, we will sustain the respondent's appeal and find that the respondent is eligible for cancellation of removal under section 240A(b)(1) of the Act. The record will be remanded solely for the required security checks.

Accordingly, the following orders will be entered.

ORDER: The appeal is sustained.

FURTHER ORDER: Pursuant to 8 C.F.R. § 1003.1(d)(6), the record is remanded to the Immigration Judge for the purpose of allowing the Department of Homeland Security the opportunity to complete or update identity, law enforcement, or security investigations or examinations, and further proceedings, if necessary, and for the entry of an order as provided by 8 C.F.R. § 1003.47(h).



FOR THE BOARD