

**Immigration Court: BIA****Case:** *Matter of J-J-G-*, 27 I&N Dec. 808 (BIA 2020)**Date:** March 31, 2020**Adjudicated by:** Malphrus, Creppy, Cassidy**Opinion:** Malphrus**Tags:** Cancellation of removal, exceptional hardship, USC/LPR relatives, medical conditions**Question Presented:** Did the IJ err in not granting cancellation of removal in a case claiming medical hardship?**Holdings:** Appeal dismissed.  
Hardship to USC/LPR relatives must be “exceptional and extremely unusual.”**Rationale:** Sure, removal is hard on the family, but you have to show convincing evidence that your removal will be lots harder than removal normally is if you want to win cancellation.**Facts:** Guatemalan national in US for many years after EWI, now has five USC children and LPR mother. In removal proceedings, claims hardship based on daughter’s hyperthyroidism, son’s diagnosis of ADHD, mother’s hypertension. Claims it would be too difficult to obtain medical care for these conditions in Guatemala.**History of the Case:** IJ denied cancellation because there wasn’t enough evidence to establish an “exceptional and extremely unusual” degree of hardship, either with separation or if USC children accompanied respondent to Guatemala.**Appeals to Statute & Precedent:**

- **INA 240A(b)(1)(D):** “Alien’s removal would result in exceptional and extremely unusual hardship to the alien’s spouse, parent, or child, who is a citizen of the US or an alien lawfully admitted for permanent residence.”
- ***Matter of Monreal*, 23 I&N Dec. 56, 63 (BIA 2001):** Cancellation of removal considers age, health, circumstances of USC/LPR relatives affected. Merely showing that there’s a lower standard of living in that country isn’t enough to qualify as “hardship.” The hardship must be “substantially different from, or beyond, that which would normally be expected from the deportation of an alien with close family members here.” (*Monreal* at 65)
- ***Matter of D-A-C-*, 27 I&N Dec. 575, 579 (BIA 2019):** IJ can decide among plausible options to explain facts presented in record.
- ***Matter of Correa*, 19 I&N Dec. 130, 134 (BIA 1984):** Just because medical facilities in another country aren’t as good as in US, doesn’t equal “extreme hardship.”
- ***Matter of Andazola*, 23 I&N Dec. 319, 323 (BIA 2002):** Economic deficiencies of country does not necessary equal “extreme hardship.”

- ***Matter of Castillo-Perez*, 27 I&N Dec. 664, 669 (A.G. 2019)**: cancellation only to the most deserving.

**Quotes:**

- “Generally, an applicant will lack firsthand knowledge and medical expertise needed to provide persuasive and sufficiently specific testimony regarding the seriousness of a qualifying relative’s medical condition and the availability of care in the country of removal to meet that burden. The [IJ] should therefore determine whether the applicant has submitted sufficient reliable evidence to corroborate his or her testimony in this regard.” *Matter of J-J-G-*, 27 I&N Dec. 808, 811-812 (BIA 2020).
- “While the respondent’s children may face fewer economic and educational opportunities in Guatemala than they would if they remained in this country, both in the short and long term, economic detriment is generally insufficient to support a finding of the required hardship. . . . Difficulties of this nature are an unfortunate consequence of removal in many cases.” *Matter of J-J-G-*, 27 I&N Dec. 808, 814 (BIA 2020).

**Commentary:**

- Cancellation can be on grounds other than medical hardship, but if you’re going to prove medical hardship you have to show both the condition and also that it would not be adequately treated if the USC/LPR accompanied respondent back to their country of origin.