

22-666 WILKINSON V. GARLAND

DECISION BELOW: 2022 WL 4298337

LOWER COURT CASE NUMBER: 21-3166

QUESTION PRESENTED:

Under the Immigration and Nationality Act, the Attorney General has discretion to cancel removal of non-permanent residents who satisfy four eligibility criteria, including "that removal would result in exceptional and extremely unusual hardship" to the applicant's immediate family member who is a U.S. citizen or lawful permanent resident. 8 U.S.C. § 1229b(b)(1)(D).

Congress stripped courts of jurisdiction to review cancellation-of-removal determinations, 8 U.S.C. § 1252(a)(2)(B)(i), but expressly preserved their jurisdiction to review "questions of law." *Id.* § 1252(a)(2)(D). And as this Court has already held, this "statutory phrase 'questions of law' includes the application of a legal standard to undisputed or established facts"—that is, a "mixed question of law and fact." *Guerrero-Lasprilla v. Barr*, 140 S. Ct. 1062, 1068-69 (2020).

The question presented is whether an agency determination that a given set of established facts does not rise to the statutory standard of "exceptional and extremely unusual hardship" is a mixed question of law and fact reviewable under § 1252(a)(2)(D), as three circuits have held, or whether this determination is a discretionary judgment call unreviewable under § 1252(a)(2)(B)(i), as the court below and two other circuits have concluded.

CERT. GRANTED 6/30/2023