Matter of Guanrong YANG, Respondent

Decided by Board September 21, 2026 [1]

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

The Immigration Judge erred in granting cancellation of removal for certain permanent residents as a matter of discretion where the Immigration Judge's decision did not adequately account for the nature, recency, and seriousness of the respondent's criminal record—including two drug-related convictions and an arrest for domestic violence in the past 5 years—and where the respondent's equities were outweighed by his criminal record.

FOR THE RESPONDENT: Stephen W. Spurgin, Esquire, El Paso, Texas

FOR THE DEPARTMENT OF HOMELAND SECURITY: Benjamin Martin, Counsel

BEFORE: Board Panel: RADICS, Deputy Chief Appellate Immigration Judge; GALLOW, Appellate Immigration Judge; WANG, Temporary Appellate Immigration Judge.

RADICS, Deputy Chief Appellate Immigration Judge:

The Department of Homeland Security ("DHS") has appealed from the Immigration Judge's September 15, 2025, decision granting the respondent's application for cancellation of removal under section 240A(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1229b(a) (2024). The respondent, a native and citizen of China, objects to the appeal. The appeal will be sustained, and the Immigration Judge's decision will be reversed.

The Immigration Judge granted the respondent's application for cancellation of removal in a favorable exercise of discretion, concluding that the respondent's equities outweighed the adverse factors. The Immigration Judge found that the parties had conceded statutory eligibility. On appeal, DHS contends that DHS did not concede that the respondent's conviction

[1] Pursuant to Order No. 7271-2026, dated October 27, 2026, the Attorney General designated the Board's decision in *Matter of Yang* (BIA Sep. 21, 2026), as precedent in all proceedings involving the same issue or issues. *See* 8 C.F.R. § 1003.1(g)(3) (2026). Editorial changes have been made consistent with the designation of the case as a precedent.

was not an aggravated felony and that the Immigration Judge erred in finding that the respondent merited a favorable exercise of discretion.

The respondent is required to demonstrate statutory eligibility for relief from removal and that he merits a favorable exercise of discretion. *See* INA § 240(c)(4)(A), 8 U.S.C. § 1229a(c)(4)(A) (2024); 8 C.F.R. § 1240.8(d) (2026). To establish statutory eligibility for cancellation of removal under section 240A(a) of the INA, 8 U.S.C. § 1229b(a), the respondent must demonstrate that he "(1) has been an alien lawfully admitted for permanent residence for not less than 5 years, (2) has resided in the United States continuously for 7 years after having been admitted in any status, and (3) has not been convicted of any aggravated felony." *See also Matter of C-V-T-*, 22 I&N Dec. 7, 10 (BIA 1998).

Upon de novo review, we disagree with the Immigration Judge that the respondent warrants a favorable exercise of discretion. *See* 8 C.F.R. § 1003.1(d)(3)(ii) (2026) (requiring the Board to engage in de novo review when reviewing issues of discretion); *see also Matter of Z-Z-O-*, 26 I&N Dec. 586, 590 n.3 (BIA 2015) (explaining that the Board has the "authority to afford different weight to the evidence from that given by the Immigration Judge"); *Matter of C-V-T-*, 22 I&N Dec. at 11–12 (holding that in evaluating whether the respondent merits a favorable exercise of discretion, the Immigration Judge must balance positive and adverse factors under section 240A(a) of the INA, 8 U.S.C. § 1229b(a), including family ties, hardship to family if removed, long residence in the United States, employment history, the seriousness and recency of criminal activity, and proof of or lack of rehabilitation).

Discretionary determinations require a balancing of the adverse factors evidencing the applicant's undesirability as a permanent resident with the equities presented on his behalf. *See Matter of Mendez*, 21 I&N Dec. 296, 301 (BIA 1996); *Matter of Arai*, 13 I&N Dec. 494, 495–96 (BIA 1970); *see also Matter of Marin*, 16 I&N Dec. 581, 584–85 (BIA 1978) (listing relevant factors). Discretion generally will not be exercised favorably to an applicant convicted of serious criminal offenses if the applicant fails to come forward with evidence of unusual or outstanding countervailing equities. *Matter of Buscemi*, 19 I&N Dec. 628, 633–34 (BIA 1988); *see also Matter of C-A-S-D-*, 27 I&N Dec. 692, 699 (BIA 2019) (holding that an applicant's "extensive criminal history is a substantial adverse factor"). An applicant "who has a criminal record will ordinarily be required to present evidence of rehabilitation before relief is granted as a matter of discretion." *Matter of C-V-T-*, 22 I&N Dec. at 12; *see also Matter of Marin*, 16 I&N Dec. at 588–89; *Matter of Mendez*, 21 I&N Dec. at 305 ("[R]ehabilitation or

the lack thereof is a factor to be considered in the exercise of discretion, and it may be ultimately determinative in some cases.").

The Immigration Judge's decision does not adequately account for the nature, recency, and seriousness of the respondent's criminal record. *See Matter of Mendez*, 21 I&N Dec. at 301; *see also Matter of Mills*, 29 I&N Dec. 668 (BIA 2026) (holding that the Immigration Judge erred in finding the respondent's equities outweighed his extensive criminal history). As the Immigration Judge notes, the respondent was arrested four times in the 5 years preceding the hearing. In 2022, the respondent was convicted in Arkansas of possession of a controlled substance with purpose to deliver marijuana, and in 2023, he was convicted in Oklahoma of cultivation of a controlled substance and trafficking in illegal drugs. While he was on probation in Oklahoma, an arrest warrant was issued when the respondent violated his probation by leaving the state to travel to California to confront his wife. As soon as the respondent arrived in California and confronted his wife, he was arrested on separate domestic violence charges for his actions in dragging his wife on the road while she was partly hanging out of a motor vehicle he was driving. While the domestic violence case was pending at the time of the hearing and he had not been convicted, we consider this a serious negative factor. *See Matter of Pinzon*, 26 I&N Dec. 189, 196 (BIA 2013) (holding that when weighing equities against negative factors in discretionary determinations, criminal conduct may be considered even if it did not result in a conviction).

We acknowledge that the respondent presented numerous equities. The respondent was previously gainfully employed and paying taxes throughout much of his time in the United States. Further, the respondent pled guilty, took accountability for his transgressions, and expressed remorse for his actions. The Immigration Judge also considered the numerous witnesses who testified to the respondent's good moral character. The Immigration Judge identified factors regarding family ties, hardship to the family if removed, residence in the United States, and employment history. However, upon de novo review, we conclude that the numerous, serious adverse factors outweigh the equities such that the respondent does not merit a favorable exercise of discretion. *See Matter of C-V-T-*, 22 I&N at 11–12.

Considering our conclusion that the respondent does not merit relief as a matter of discretion, we need not reach DHS' remaining arguments on appeal regarding the respondent's disqualifying aggravated felony. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach."); *Matter of L-A-C-,* 26 I&N

Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal regarding ineligibility for relief where an applicant is otherwise statutorily ineligible for such relief).

ORDER: DHS' appeal is sustained.

FURTHER ORDER: The Immigration Judge's September 15, 2025, decision is reversed, and the respondent is ordered removed to China.

NOTICE: If a respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, or to present himself or herself at the time and place required for removal by DHS, or conspires to or takes any action designed to prevent or hamper the respondent's departure pursuant to the order of removal, the respondent shall be subject to a civil monetary penalty of up to $998 for each day the respondent is in violation. *See* INA § 274D, 8 U.S.C. § 1324d (2024); 8 C.F.R. § 280.53(b)(14) (2026). Further, any respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than 2 years, or both. *See* INA § 276(a), 8 U.S.C. § 1326(a) (2024).