

No. 23-44

In the Supreme Court of the United States

ARTEMIO GARCIA-PASCUAL, PETITIONER

v.

MERRICK B. GARLAND, ATTORNEY GENERAL

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT*

MEMORANDUM FOR THE RESPONDENT

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Under 8 U.S.C. 1229b(b)(1)(D), “an alien who is inadmissible or deportable from the United States” may obtain the discretionary relief of cancellation of removal only when, among other things, his “removal would result in exceptional and extremely unusual hardship to the alien’s spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.” Petitioner contends (Pet. i, 8) that the agency’s determination that he did not satisfy the “exceptional and extremely unusual hardship” requirement is subject to judicial review as a mixed question of law and fact under 8 U.S.C. 1252(a)(2)(D). As petitioner correctly observes (Pet. 8), this Court is currently considering that issue in *Wilkinson v. Garland*, cert. granted, 143 S. Ct. 2687 (2023) (No. 22-666). This petition should therefore be held pending the decision in

Wilkinson and then disposed of as appropriate in light of that decision.*

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General

SEPTEMBER 2023

* Respondent waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.