

No. 25-1522

IN THE

United States Court of Appeals for the Third Circuit

SAMUEL CARDENAS,

Petitioner,

v.

ATTORNEY GENERAL UNITED STATES OF AMERICA,

Respondent.

On Appeal from the United States Board of Immigration Appeals

No. A 201-953-491BRIEF OF AMICI CURIAE

Joseph Lawlor

**Counsel of Record*

Grace Nealon

HAYNES AND BOONE, LLP

30 Rockefeller Plaza, 26th Floor

New York, NY 10112

(212) 659-7300

Pro bono counsel for amici curiae

NIWAP, Inc.

Tahirih Justice Center

Legal Momentum

Lauren Brogdon

HAYNES AND BOONE, LLP

1221 McKinney St., #4000

Houston, TX 77010

(713) 547-2000

Allyson Malecha

HAYNES AND BOONE, LLP

1 Post St., Ste 2800

San Francisco, CA 94104

(415) 293-8900

TABLE OF CONTENTS

I.	STATEMENT OF INTEREST OF AMICI CURIAE	1
II.	INTRODUCTION.....	4
A.	This Court’s Decision Will Have Wide-Ranging Implications for Survivors of Domestic Violence.	4
B.	Samuel Cardenas Was Subjected to Decades of Domestic Abuse and Brought to Live in the United States as a Child.	5
C.	Samuel Cardenas’s Immigration Status	8
III.	ARGUMENT & AUTHORITIES	9
A.	VAWA was enacted to protect abused immigrant children just like Samuel Cardenas.....	10
B.	The Board incorrectly relied on <i>Matter of L-L-P</i>	19
1.	Matter of L-L-P’s interpretation of special rule cancellation contradicts Congressional intent.	19
2.	Matter of L-L-P focused solely on the spousal relationship, which is fundamentally different than a parent-child relationship.	23
3.	The Board’s decision was ignorant of the abuse tactic of coercive control.....	25
IV.	CONCLUSION	35
V.	CERTIFICATE OF BAR MEMBERSHIP	36
VI.	CERTIFICATE OF COMPLIANCE WITH 32(a)	37

VII. CERTIFICATE OF COMPLIANCE WITH L.A.R. 31.1(c)	38
--	----

TABLE OF AUTHORITIES

Cases

<i>Arguijo v. U.S. Citizenship and Immig. Services</i> , 991 F.3d 736 (7th Cir. 2021).	24
<i>Hernandez v. Ashcroft</i> , 345 F.3d 824 (9th Cir. 2003)	27, 28
<i>In re Tabassum Saleheen</i> , A097 967 736 (BIA July 20, 2009)	20
<i>Lopez-Birrueta v. Holder</i> , 633 F.3d 1211 (9th Cir. 2011)	27
<i>Matter of L-L-P</i> , 28 I. & N. Dec. 241 (BIA 2021).....	19, 20, 24, 35
<i>Nvart Idinyan</i> (formerly <i>Nvart Huckfeldt</i>), A75-900-716 (BIA January 20, 2006).....	25
<i>Saleheen v. Holder</i> , 618 F.3d 957 (8th Cir. 2010).....	20

Statutes

42 U.S.C. §§ 13731.....	4
8 C.F.R. § 204.2(c)(vi)	11
8 C.F.R. §204.2(c)(1).....	26
8 U.S.C. § 1229(b)(2)	9
8 U.S.C. § 1229b(b)(1).....	9
8 U.S.C. § 1229b(b)(2)(A)(i)(I)	11
8 U.S.C. § 1367.....	22

8 U.S.C. § 1367(a)(1)(A).	22
8 U.S.C. § 204(a)(1)(D)(v).....	17
Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”), Pub. L. No. 104–208	11
Personal Responsibility and Work Opportunity Reconciliation Act (“PRWORA”), Pub. L. No. 104–193	11

Other Authorities

146 CONG. REC. S10164, S10170 (daily ed. Oct. 11, 2000)	17
A. Alsinai, et al. <i>Use of immigration status for coercive control in domestic violence protection orders</i> , 28:8 FRONT SOCIOL.(2023	23
ALINA HUSAIN ET AL., VAWA CONFIDENTIALITY: STATUTES, LEGISLATIVE HISTORY, AND IMPLEMENTING POLICY (Feb. 22, 2017, updated June 7, 2022) https://niwaplibrary.wcl.american.edu/wp-content/uploads/VAWA- Confidentiality-Statutes-Leg-History-Policies-2.23.17.pdf	22
Battered Immigrant Women Protection Act of 1999: Hearing on H.R. 3083 Before the Subcomm. on Immigr. and Claims of the Comm. on the Judiciary H. R, 106th Cong. (2000).....	10, 12, 13, 14, 17, 18, 20

Emma Katz et al., <i>When Coercive Control Continues to Harm Children: Post-Separation Fathering, Stalking and Domestic Violence</i> , 29 CHILD ABUSE REV 310 (2020).....	26
Evan Stark & Marianne Hester, <i>Coercive Control: Update and Review</i> , 25 VIOLENCE AGAINST WOMEN 81 (2019).....	26
Kathryn J. Spearman et al., <i>Post-Separation Abuse: A Literature Review Connecting Tactics to Harm</i> , 21 J FAM TRAUMA CHILD CUSTODY CHILD DEV 145 (2024).....	28, 34
Kimberg et al., <i>Fears of disclosure and misconceptions regarding domestic violence reporting amongst patients in two US emergency departments</i> . PLOS ONE 2;16 (2021).....	23
Kristina Block & Jacob Kaplan, <i>Testing the Cinderella Effect: Measuring Victim Injury in Child Abuse Cases</i> , 82 J OF CRIM. JUST. 101987 (2022).	31
Leslye E. Orloff and Janice V. Kaguyutan, <i>Offering a Helping Hand: Legal Protections for Battered Immigrant Women: A History of Legislative Responses.</i> , 10 AM. UNIV. J. OF GENDER, SOC. POL’Y & L. 95, 108 (2002) 11, 12, 13, 14, 17, 18, 25	

Letter from Americans for Immigrant Justice, et. al., to Alejandro	
Mayorkas, Dir. of U.S. Citizenship and Immigr. Servs. (Jan. 10, 2013)	13
Martin R. Huecker et al., Domestic Violence, in STATPEARLS (2025).....	28
Messing et al., <i>Culturally competent intimate partner violence risk assessment:</i>	
<i>Adapting the Danger Assessment for immigrant women.</i> SOCIAL WORK RSCH,	
37(3), 263 (2013)	29, 30, 31, 32, 33, 34
Nakiya Xyrakis et al., <i>Interparental Coercive Control and Child and Family</i>	
<i>Outcomes: A Systematic Review</i> , 25 TRAUMA, VIOLENCE, & ABUSE 22 (2024).	
.....	26
Nancy Glass et al., <i>Non-Fatal Strangulation Is an Important Risk Factor for</i>	
<i>Homicide of Women</i> , 35 J EMERG MED 329 (2008).....	33
National Immigrant Women’s Advocacy Project, Untold Stories VAWA	
1994: Cases Documenting Abuse By U.S. Citizens and Lawful Residents	
of Immigrant Spouses (1993),	15
NATL. COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, FAMILY VIOLENCE,	
MODEL STATE CODE (1994)	26
NATL. COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, FAMILY VIOLENCE,	
MODEL STATE CODE (2022).....	26, 27

S. Rep. No. 146-126 (2000)	10
Susan B. Sorenson et al., <i>A Systematic Review of the Epidemiology of Nonfatal arStrangulation, a Human Rights and Health Concern</i> , 104 AM J PUB. HEALTH e54 (2014).....	32
Susanne Lohmann et al., <i>The Trauma and Mental Health Impacts of Coercive Control: A Systematic Review and Meta-Analysis</i> , 25 TRAUMA, VIOLENCE, & ABUSE 630 (2024).	25
U.S. Citizenship & Immigr. Servs., Memorandum from William R. Yates, Assoc. Dir. for Operations, “Determinations of Good Moral Character in VAWA-Based Self-Petitions With a History of Unlawful Acts” (Sept. 19, 2005).....	12
WILLIAM A. KANDEL, CONG. RSCH. SERV., R43518, IMMIGRATION PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT (VAWA) 28 (Feb. 13, 2015)...	14, 17,

I. STATEMENT OF INTEREST OF AMICI CURIAE

A. NIWAP, Inc.

Amicus curiae National Immigrant Women's Advocacy Project (NIWAP), Inc. ("NIWAP") is a nonprofit organization founded to educate, train, advocate, and conduct research on issues impacting immigrant women and children, particularly immigrant victims of domestic violence, sexual assault, child abuse, and human trafficking. NIWAP is a national organization that offers direct technical assistance and training to professionals who work with immigrant crime victims, including attorneys, advocates, immigration judges, state court judges, police, prosecutors, Department of Homeland Security staff, and other professionals. The director of NIWAP worked closely with Congress in drafting the protections of the Violence Against Women Act ("VAWA"), as well as the amendments to VAWA. Since this case involves of a provision of VAWA that allows for children subjected to battery or extreme cruelty by a U.S. Citizen or Legal Permanent Resident parent to be eligible for cancellation of removal, NIWAP has an interest in the outcome of this case. Due to NIWAP's involvement in the drafting and amending of VAWA, as well as NIWAP's

training and education of professionals who work with immigrant abuse victims, NIWAP has an interest in ensuring that VAWA's protections are interpreted and applied correctly.

B. Legal Momentum

Legal Momentum is a national nonprofit organization dedicated to legal advocacy for women's rights and gender equality, including in the area of gender-based violence. Legal Momentum conducts impact litigation, policy advocacy, and education to further these goals. Legal Momentum was involved in the drafting and passing of VAWA and has an interest in ensuring that the interpretation of VAWA aligns with the goals of the Act.

C. Tahirih Justice Center

The Tahirih Justice Center ("Tahirih") is a national, nonprofit organization that serves women, girls, and all immigrant survivors of domestic violence, sexual assault, and other forms of gender-based violence. Tahirih's whole-person approach to services provides each survivor with free legal support and social services to secure the rights they are entitled to under U.S. law and to build stable lives. Tahirih translates expertise gained from serving our clients into training, education, and policy advocacy to

ensure that systems, laws, and policies protect immigrant survivors from violence and exploitation. By amplifying the experiences of survivors, Tahirih's mission is to create a world in which all people share equal rights and live in safety and with dignity.

The Amici Curiae file this brief under Fed. R. App. P. 29(a). Appellant's counsel neither authored the brief in whole or in part, nor contributed financial support to the preparation or submission of this brief.

II. INTRODUCTION

A. This Court's Decision Will Have Wide-Ranging Implications for Survivors of Domestic Violence.

An affirmation by this Court would create devastating adverse precedent for the children of lawful permanent residents, whom Congress has explicitly aimed to protect. Specifically, the Violence Against Women Act, 42 U.S.C. §§ 13931, *et seq.* (“VAWA”) was designed to afford protection to individuals like Petitioner Samuel Cardenas, who suffered unfathomable abuse at the hands of his lawful permanent resident stepfather and is thus eligible for VAWA Cancellation of Removal that Congress created in VAWA as humanitarian immigration relief for abused stepchildren, children and spouses. Despite this fact, Petitioner was denied VAWA’s protections and ordered to be removed from the United States as an adult. Because the Board of Immigration Appeals’ flawed interpretation of the law could be applied to other cases nationwide, its error, if affirmed, would have catastrophic effects for immigrant child abuse victims whom VAWA sought to protect as abused children and stepchildren of lawful permanent residents. The undersigned organizations and individuals therefore urge this Court to reverse the Board of Immigration Appeals’ ruling.

B. Samuel Cardenas Was Subjected to Decades of Domestic Abuse and Brought to Live in the United States as a Child.¹

As a child, Samuel Cardenas sustained horrific abuse by his stepfather, Francisco Escolastico, both in his home country of the Dominican Republic and after he and Mr. Escolastico moved to the United States with Mr. Cardenas's mother, Maria Perdomo. The abuse was physical: Mr. Escolastico brutally beat Mr. Cardenas and his mother daily, with "his hands," "an iron cable[,] or anything that he had at the moment."² But the abuse was also psychological and emotional: once the family moved to the United States in 1999, Mr. Escolastico did not permit Mr. Cardenas (then age 14) or his mother to leave the house or see friends and family.³ Their windows were "sealed with nails," and they lived in constant fear of Mr. Escolastico.⁴ Mr. Escolastico often told Mr. Cardenas that he would end up a drug addict like his biological father and called him "worthless, stupid, and a nobody."⁵ And

¹ A full recitation of the relevant facts can be found in the Brief for Petitioner Samuel Cardenas, filed June 9, 2025.

² Dkt. 13-2, p. 405.

³ Dkt. 13-2, p. 715.

⁴ Dkt. 13-2, p. 604.

⁵ Dkt. 13-2, p. 198.

the abuse was financial: while Mr. Escolastico did not allow Ms. Perdomo to work, Mr. Cardenas started working at an autobody shop when his was 12 years old because Mr. Escolastico would withhold money from him and his mother.⁶ This financial abuse further isolated Mr. Cardenas and his mother and made them wholly dependent on Mr. Escolastico. When Mr. Cardenas was only seventeen or eighteen, following a fist fight with Mr. Escolastico, Mr. Cardenas moved out of the house, telling Ms. Perdomo that he could not take the constant abuse.⁷

Mr. Cardenas and his mother never sought assistance from the police or any authorities, as Mr. Escolastico threatened that if they did so, he would make Mr. Cardenas and his siblings “disappear.”⁸ Most significantly, Mr. Escolastico used their immigration status to further the abuse and control, threatening them with deportation if they reported the abuse.⁹ Only after Ms. Perdomo received her lawful permanent residency in 2013 did she feel

⁶ Dkt. 13-2, p. 1010.

⁷ Dkt. 13-2, p. 117, 145.

⁸ Dkt. 13-2, p. 598.

⁹ Dkt. 13-2, p. 603.

safe enough to leave the decades-long abusive relationship.¹⁰ Yet even though the spouses were separated, Mr. Escolastico threatened Ms. Perdomo into filing an immigration petition on his behalf in 2013: he told her that he would “take her out of the way” if she did not go to the immigration appointment with him as his spouse.¹¹ Mr. Escolastico obtained lawful permanent resident status on December 23, 2013.¹² In March 2014, Ms. Perdomo obtained a protective order against Mr. Escolastico, but he nevertheless continued to stalk, threaten, and harass her and Mr. Cardenas.¹³ Mr. Escolastico showed up to her workplace and home unexpectedly, and Mr. Cardenas would be called to protect his mother.¹⁴ In 2015, Mr. Escolastico traveled to the Dominican Republic, where he told a family friend (who relayed the message to Ms. Perdomo) that he would kill Ms. Perdomo if he ever saw her again.¹⁵ When Mr. Escolastico returned to the United States, he immediately violated the protective order when he showed

¹⁰ Dkt. 13-2, p. 643-44.

¹¹ Dkt. 13-2, p.620.

¹² Dkt. 13-2, p. 772.

¹³ Dkt. 13-2, p. 649.

¹⁴ Dkt. 13-2, p. 664-67.

¹⁵ Dkt. 13-2, p.29.

up uninvited to a party at Ms. Perdomo's building.¹⁶ Mr. Escolastico sought out Mr. Cardenas to aggressively and abusively confront him, leading to Mr. Escolastico being forcibly removed.¹⁷

In June 2016, Ms. Perdomo and Mr. Escolastico's divorce was finalized.¹⁸ Throughout this period, and to this day, Mr. Cardenas served as Ms. Perdomo's main source of emotional support and physical protection against his stepfather, who abused his mother and was his own abuser. Mr. Cardenas provided financial support as well: helping his mother pay her bills until she was able to support herself. Ms. Perdomo is now a U.S. citizen. Mr. Cardenas's immigration status, despite his own decades of abuse, remains at risk.

C. Samuel Cardenas's Immigration Status

Mr. Cardenas was brought to the United States when he was 14 years old and has lived here with his family for the past 25 years. The government charged Mr. Cardenas as inadmissible for not possessing a valid entry

¹⁶ Dkt. 13-2, p.30.

¹⁷ Dkt. 13-2, p. 30.

¹⁸ Dkt. 13-2, p.7.

document, and Mr. Cardenas applied for cancellation of removal at the Immigration Court under Section 240A(b)(2) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1229b(b)(2), a provision of VAWA. He also applied for cancellation of removal under Section 240A(b)(1) of the INA, 8 U.S.C. § 1229b(b)(1), based on hardship to his mother, who relies on him for support of all kinds. The Immigration Judge held that he was not eligible for VAWA Cancellation and was thus removable. On appeal, the Board of Immigration Appeals (“Board”) agreed.

III. ARGUMENT & AUTHORITIES

The Board’s holding was erroneous for three reasons. First, it incorrectly interpreted VAWA and Congress’s specific intent to minimize procedural hurdles for immigrant child victims of domestic violence. Second, it incorrectly relied on *Matter of L-L-P*, to read a temporality requirement into the period of abuse and period of permanent residency. Finally, it ignored the legitimate risks posed to survivors of domestic violence and child abuse that were explicitly addressed by Congress and for which Congress created immigration relief in VAWA.

A. VAWA was enacted to protect abused immigrant children just like Samuel Cardenas.

Shortly after Congress passed VAWA to address the ongoing public health crisis of domestic violence in the United States, Congress acknowledged that VAWA's original provisions, due to intervening changes in U.S. immigration laws in 1996, did not adequately protect domestic abuse victims without lawful immigration status.¹⁹ For that reason, Congress's reauthorization of VAWA in 2000 was intended to address systemic legal and procedural obstacles that left immigrant survivors of domestic violence—and particularly their children—without meaningful access to protection or lawful immigration status.²⁰

Even before this crucial amendment, VAWA's enactment in 1994 established groundbreaking immigration protections, including allowing

¹⁹ S. Rep. No. 146-126, at 510185 (2000). “[W]e designed VAWA to prevent abusive husbands from using control over their wives' immigration status to control them. . . we have discovered additional areas that need to be addressed. . .”

²⁰ Battered Immigrant Women Protection Act of 1999: Hearing on H.R. 3083 Before the Subcomm. on Immigr. and Claims of the Comm. on the Judiciary H. R, 106th Cong. (2000) [hereinafter “Hearing on Battered Immigrant Women Protection Act”].

victims to self-petition under the Immigration and Nationality Act (“INA”). Self-petitioning allowed immigrant spouses, children and stepchildren who were victims of abuse by U.S. citizens or lawful permanent residents to apply for legal status without the involvement or knowledge of their abuser.²¹ VAWA and U.S. immigration laws have defined abuse as battery or extreme cruelty.²²

However, in 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”), Pub. L. No. 104–208, and the Personal Responsibility and Work Opportunity Reconciliation Act (“PRWORA”), Pub. L. No. 104–193, which together imposed significant restrictions that had unintended consequences for VAWA self-petitioners.²³ IIRIRA introduced barriers that hindered battered immigrants seeking protection, including authorizing the government to reinstate prior removal orders, expanding grounds of inadmissibility or deportability and

²¹ See Leslye E. Orloff and Janice V. Kaguyutan, *Offering a Helping Hand: Legal Protections for Battered Immigrant Women: A History of Legislative Responses.*, 10 AM. UNIV. J. OF GENDER, SOC. POL’Y & L. 95, 108 (2002).

²² 8 U.S.C. § 1229b(b)(2)(A)(i)(I); 8 C.F.R. § 204.2(c)(vi).

²³ Orloff, *supra* note 21 at 129–30.

introducing a requirement to show a “substantial connection” between abuse and unlawful acts.²⁴ PRWORA restricted access to federal public benefits for many categories of immigrants—even survivors of domestic violence.²⁵ The immigration reforms under PRWORA and IIRIRA had unintended but deeply harmful effects on immigrants who had survived domestic violence and child abuse, including eliminating eligibility for adjustment under INA § 245(i) and narrowing access to cancellation of removal.²⁶ Congress acknowledged that these changes jeopardized survivors’ legal status and safety by forcing them to leave the United States to receive their green cards.²⁷ Additionally, the 1996 amendments did not

²⁴ 8 U.S.C. § 1229b(b)(2)(A)(v); *see also* 8 C.F.R. § 204.2(c)(1)(vi); *see also* U.S. Citizenship & Immigr. Servs., Memorandum from William R. Yates, Assoc. Dir. for Operations, “Determinations of Good Moral Character in VAWA-Based Self-Petitions With a History of Unlawful Acts” (Sept. 19, 2005).

²⁵ Orloff, *supra* note 21, at 121–24.

²⁶ *Id.* at 130–32; *see also* Hearing on Battered Immigrant Women Protection Act, at 65 (statement of Rep. John Conyers, Jr.):

“an unintended effect of the 1996 immigration law is that a spouse's VAWA petition for immigration relief becomes void when her husband is deported. This creates a perverse incentive for a battered immigrant spouse to tolerate the abuse rather than report it.”

²⁷ *Id.* at 66 (statement of Rep. John Conyers, Jr.) (“Traveling outside the United States, of course, deprives these immigrants of the protection provided by the courts, custody decrees and law enforcement. Once abroad,

extend immigration protections to children of self-petitioning parents unless they were included as qualifying relatives on the original petition.²⁸ This led to situations where children of abuse victims could not access lawful immigration status independently—even when they were also abused or directly impacted by the abuse of their parent.²⁹ For example, certain children of VAWA self-petitioners were denied protections under the statute if they turned 21 (“aged out”) before the petition was adjudicated, despite the ongoing vulnerability and need for protection.³⁰

Congress enacted updates in VAWA’s 2000 reauthorization in part to reverse the unintended consequences of the PRWORA and IIRIRA and to reaffirm Congress’s intent to protect battered immigrants, particularly the spouses, children, and stepchildren of U.S. citizens or lawful permanent

the battered immigrant is, of course, vulnerable to stalking and retaliatory attacks by the abuser.”); *see also* Orloff, *supra* note 21, at 130-132.

²⁸ *See* Letter from Americans for Immigrant Justice, et. al., to Alejandro Mayorkas, Dir. of U.S. Citizenship and Immigr. Servs. (Jan. 10, 2013) [hereinafter “Letter to Alejandro Mayorkas”]; *see also* Orloff, *supra* note 21, at 148.

²⁹ *Id.* at 135.

³⁰ *See* Letter to Alejandro Mayorkas, *supra* note 28 at 115; Hearing on Battered Immigrant Women Protection Act at 69 (statement of Rep. Jackson Lee).

resident abusers, like Samuel Cardenas.³¹ Congress explicitly stated that its purpose for amending the law was to remove barriers that had prevented immigrant victims from accessing relief.³² Key provisions of the 2000 VAWA reauthorization extended protections to children of self-petitioners, even if they were not originally included on the petition or had aged out.³³ Congress also clarified that children and stepchildren (like Samuel Cardenas) who had been abused or whose parent had been abused remained eligible to apply for immigration benefits under VAWA, regardless of marital status or age at the time of adjudication, as long as they met eligibility at the time of filing.³⁴ These reforms were designed to restore the original intent of Congress when it passed VAWA in 1994 and to ensure that children of abused immigrants did not lose protection under VAWA because of technical immigration requirements or delays in processing.

³¹ *Id.* (statement of Rep. Janice Schakowsky, et. al.); *see also* Hearing on Battered Immigrant Women Protection Act, at 10.

³² *Id.*

³³ *See* Orloff, *supra* note 21, at 145-46.

³⁴ Hearing on Battered Immigrant Women Protection Act at 85; *see also* WILLIAM A. KANDEL, CONG. RSCH. SERV., R43518, IMMIGRATION PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT (VAWA) 28 (Feb. 13, 2015).

In reauthorizing VAWA in 2000, Congress responded to the consequences of restrictive amendments to immigration law in the mid-1990s—laws that undermined protections for noncitizen survivors and left them and their children increasingly vulnerable.³⁵ Congress acknowledged that, in the 1990s, battered immigrants and their children were forced to stay in abusive relationships out of fear of being deported or losing their children.³⁶ The expansion of VAWA’s protections to children of self-petitioners and stepchildren, like Mr. Cardenas, was deliberate and central to the law’s remedial purpose.

In so doing, Congress sought to protect survivors of abuse and empower them to escape those abusive circumstances without jeopardizing their ability to remain safely in the United States.³⁷

³⁵ National Immigrant Women’s Advocacy Project, *Untold Stories VAWA 1994: Cases Documenting Abuse By U.S. Citizens and Lawful Residents of Immigrant Spouses* (1993), [<https://niwaplibrary.wcl.american.edu/wp-content/uploads/Untold-Stories-VAWA-1994.pdf>]; see also 146 Cong. Rec. S10164-65 (daily ed. Oct. 11, 2000) (statement of Sen. Patrick Leahy).

³⁶ 146 CONG. REC. S10164, S10170 (daily ed. Oct. 11, 2000) (statement of Sen. Patrick Leahy) (“[t]housands of battered immigrants are again being forced to remain in abusive relationships, out of fear of being deported or losing their children.”).

³⁷ *Id.* at 66 (statement of Rep. John Conyers, Jr.).

Congress responded to these concerns by reinstating and expanding protections, particularly for children. This intent was explicitly acknowledged by Representative Sheila Jackson Lee in the Hearing on the VAWA reauthorization in 2000:

H.R. 3083 would provide VAWA relief to abused children who subsequently turn 21 as long as they can demonstrate that one or more incidents of battery or extreme cruelty occurred before they turned 21.³⁸

The statutory language and legislative history show that Congress was concerned about the well-being of children and stepchildren affected by domestic violence, child abuse, and immigration insecurity. In its findings, Congress determined: “[T]here are several groups of battered immigrant women and children who do not have access to the immigration protections of [VAWA] ... *[which] means that their abusers are virtually immune from prosecution because their victims can be deported.*”³⁹ To close these gaps, Congress expanded protections for children to include children of self-petitioning battered immigrants and stepchildren like Mr. Cardenas,

³⁸ *Id.* at 69 (statement of Rep. Jackson Lee).

³⁹ *Id.* at 10 (emphasis added).

ensuring protections even if the child aged out during the application process.⁴⁰ In VAWA 2005, Congress again expanded immigration protections for abused children and stepchildren of U.S. citizens and lawful permanent residents giving them up to age 25 to file self-petitions based on battering or extreme cruelty perpetrated when the child or stepchild was under the age of 21.⁴¹

The intent was clear: to ensure that abused children, abused stepchildren, and children of self-petitioners were not excluded from protection simply due to their derivative status or timing.

Congress also recognized that abusers routinely use immigration-related threats to silence victims and maintain control.⁴² To correct this abusive tactic, the 2000 legislation expanded the VAWA self-petitioning process, allowed waivers for certain procedural bars, restored eligibility for

⁴⁰ Kandel, *supra* note 34, at 24-25; *see also* Orloff, *supra* note 21 at 145-46.

⁴¹ 8 U.S.C. § 204(a)(1)(D)(v).

⁴² Hearing on Battered Immigrant Women Protection Act, at 65 (statement of Rep. John Conyers, Jr.) (“[b]attered immigrant women and children were not able to appeal to law enforcement agencies and courts for protection because they simply feared being reported to the INS and deported.”); *id.* at 68 (statement of Rep. Jackson Lee) (“[a] batterer often uses his immigration status against his victim as a tool of control”).

adjustment under INA § 245(i), and allowed motions to reopen removal orders if necessary to prevent hardship to a battered immigrant's child.⁴³ These measures were not incidental; they reflected Congress's express goal of dismantling the structural obstacles that abusers exploited.⁴⁴

In sum, when Congress reauthorized VAWA in 2000 and 2005, it sought to eliminate the coercive power imbalance enabled by immigration laws that had formerly tethered survivors and their children to their abusers. The legislative record confirms that Congress intended to extend the full protections of VAWA to survivors of childhood domestic abuse, battering or extreme cruelty, who face compounded risks to their safety, well-being, and immigration status.

⁴³ Kandel, *supra* note 34, at 24; *see also* Orloff, *supra* note 21 at 155-56.

⁴⁴ Hearing on Battered Immigrant Women Protection Act, at 65 (statement of Jacqueline Rishty) ("many battered immigrant women may choose to stay with their abusers to protect their children rather than seek a green card and leave the country.."); *see also*, 146 Cong. Rec. S10164, S10170 (daily ed. Oct. 11, 2000) (statement of Sen. Patrick Leahy), *supra*; *see also* Orloff, *supra* note 21 at 155-56.

B. The Board incorrectly relied on *Matter of L-L-P*.

The Board's decision reflects a fundamental misunderstanding of the reality of domestic violence and coercive control in abusive relationships, especially as it pertains to immigrant victims. The Board improperly narrowed the purpose of VAWA as intended by Congress and affirmed the erroneous conclusion of *Matter of L-L-P*, which asserts that only an abuser who has status themselves can have "immigration leverage" over their victims. This is untrue, as evidenced by the facts in this case and affirmed by research. The Board's decision also fails to acknowledge that extreme cruelty includes coercive control and emotional abuse.

1. Matter of L-L-P's interpretation of special rule cancellation contradicts Congressional intent.

As discussed *supra*,⁴⁵ Congress reauthorized VAWA in 2000 to extend protection to immigrant spouses, children and stepchildren. The Board's discussion of in *Matter of L-L-P* acknowledged the possible interpretations of Sections 240A(b)(2)(A)(i)(I) and (II) of the Act. Yet, despite ample evidence of Congressional intent, the Board in *Matter of L-L-P* concluded that "the

⁴⁵ See Section A.

applicant must demonstrate that the abuser held both legal status as the applicant's legally recognized spouse and United States citizenship or lawful permanent resident status at the time of the abuse."⁴⁶ Nothing in the Congressional record substantiates a temporality requirement as part of Congress's intent in enacting VAWA—in fact, the Chairman of the Subcommittee on Immigration and a former INS spokesperson expressed *concern* that VAWA's 2000 reauthorization would allow an immigrant to file for relief after the abusive relationship had ended or after the child aged out.⁴⁷ As the Board has previously held,⁴⁸ if Congress had wanted to put a time limit on the availability of relief, it would have done so. Instead, Congress reauthorized VAWA, leaving unchanged and intact the provisions that

⁴⁶ Matter of L-L-P, 28 I. & N. Dec. 241, 246 (BIA 2021).

⁴⁷ Hearing on Battered Immigrant Women Protection Act, at 63 (statement of Hon. Lamar S. Smith) (“[t]he bill permits a self-petitioning spouse and child of a U.S. citizen to remain as immediate relatives, even if the abusive U.S. citizen loses citizenship or dies after a petition is filed”); *id.* at 166 (statement of Dwayne Austin) (“[s]o we could visualize a case of somebody who was abused at age 7 or 8 and applying for relief from this benefit at age 35.”)

⁴⁸ “[I]f Congress had wished to limit special rule cancellation of removal only to those aliens who were abused by legal permanent residents ... at the time the abuser had such status, it would have done so...” In re Tabassum Saleheen, A097 967 736 (July 20, 2009), at 5; *aff’d. by* Saleheen v. Holder, 618 F.3d 957 (8th Cir. 2010).

allowed abused immigrant spouses and children to file after the child became an adult or the abusive relationship was terminated.

In the VAWA Congressional hearing, the concept of “immigration leverage” was also discussed at length.⁴⁹ The hearing revealed numerous instances in which a victim expressed that they were too fearful to call the police or cooperate with prosecution. Regardless of their status and their victim’s status, the record clearly establishes that a victim may be hesitant to report to the police under the threat of deportation.

Therefore, even before an abuser gains lawful permanent resident status, they have immigration leverage over their victim, which amplifies once an abuser gains lawful permanent residency or U.S. citizenship. Once an abuser has status, they may now threaten the victim with deportation or other immigration consequences, with a reduced likelihood of such consequences for themselves. Congress recognized the danger that immigration-related abuse and threats pose to victims when it

⁴⁹ See Hearing on Battered Immigrant Women Protection Act at 81 (statement of Jacqueline Rishty) (“[A]n abuser who knows his spouse fears deportation proceedings may threaten divorce as a means of forcing the battered immigrant woman to stay in the abusive relationship.”)

added confidentiality protections to VAWA as part of IIRAIRA in 1996.⁵⁰ VAWA confidentiality laws bar immigration enforcement officials from using perpetrator-provided information to rule against or initiate any part of an immigration enforcement action against a victim.⁵¹ Section 8 U.S.C. 1367(a)(1)(A) applies these protections to abused spouses, children, and stepchildren without regard to the immigration status of the abuser.⁵²

Congress intended that victims must not be forced to rely on their abuser for their own immigration status. In the present case, even before Mr. Escolastico gained permanent residency, he threatened Samuel Cardenas and his mother that if they reported his abuse, he would have them deported.⁵³ These types of threats are not unique to this case—an abuser threatening their family with deportation or separation for reporting abuse

⁵⁰ 8 U.S.C. § 1367.

⁵¹ *See id.*; *see generally* ALINA HUSAIN ET AL., VAWA CONFIDENTIALITY: STATUTES, LEGISLATIVE HISTORY, AND IMPLEMENTING POLICY (Feb. 22, 2017, updated June 7, 2022) <https://niwaplibrary.wcl.american.edu/wp-content/uploads/VAWA-Confidentiality-Statutes-Leg-History-Policies-2.23.17.pdf>. (discussion of VAWA confidentiality protections and congressional intent).

⁵² 8 U.S.C. § 1367(a)(1)(A).

⁵³ Dkt. 13-2, p. 616.

is common — . many undocumented immigrants fear that reporting domestic violence will have unintended immigration consequences.⁵⁴

Congress's intent in reauthorizing VAWA was clear: it aimed to reduce the power imbalance between an abuser and their victim by severing the immigration ties between them and empowering children, stepchildren, and spouses through a clear path to status in their own name.

2. Matter of L-L-P focused solely on the spousal relationship, which is fundamentally different than a parent-child relationship.

Matter of L-L-P is further distinguishable from the present case as it deals with a spouse seeking cancellation of removal on the grounds that his common-law spouse abused him during their relationship. The Board held that an applicant for special rule cancellation under section 240(A)(b)(2) would need to demonstrate that the abuser was their lawful spouse and

⁵⁴ See, e.g. A. Alsinai, et al. *Use of immigration status for coercive control in domestic violence protection orders*, 28:8 FRONT SOCIOL.(2023); Kimberg et al., *Fears of disclosure and misconceptions regarding domestic violence reporting amongst patients in two US emergency departments*. PLOS ONE 2;16 (2021).

possessed citizenship or lawful permanent resident status at the time of the abuse.⁵⁵

While an abuser's spousal status may be changed by the abused spouse filing for divorce, the parental-child and stepparent-stepchild relationship is continuous and a divorce between the natural parent and a stepparent does not control whether abuse perpetrated by a stepparent against a stepchild ends. This aspect of parent-child relationships as it pertains to VAWA has been acknowledged by the U.S. Court of Appeals for the Seventh Circuit:

Does anyone think that Cinderella stopped being the wicked stepmother's stepchild once Cinderella's natural father died, ending the marriage? She was still a stepchild even after she married Prince Charming and moved to the palace. . . . The statute does not create any "out" clauses except for the age limits—and by referring to a child who "has resided in the past" with an abusive U.S. parent the statute implies that losing a familial relation with the abuser does not cut off the option for an immigration benefit.⁵⁶

⁵⁵ *Matter of L-L-P*, 28 I&N at 247.

⁵⁶ *Arguijo v. U.S. Citizenship and Immig. Services*, 991 F.3d 736, 736-39 (7th Cir. 2021).

VAWA recognizes the life-long impact that an abusive parent can have on a child and offers an avenue of relief for that child-victim.⁵⁷ The damage an abusive parent exerts over their victim does not end once the victim turns 18 or moves out of the house. The Board has previously held that a victim spouse who has divorced their abuser is still eligible for cancellation of removal when the impetus for the divorce was to escape the abuse.⁵⁸ The same applies here, as Mr. Cardenas left home to avoid the continuous abuse. Special rule cancellation for children of abuse is aligned with VAWA's goal of allowing victims to heal from trauma and break a violent cycle, rather than be forced to return to a dangerous situation.

3. The Board's decision was ignorant of the abuse tactic of coercive control.

It is well-documented in social science literature that coercive control impacts the lives of victims after physical abuse appears to have ended.⁵⁹

⁵⁷ Hearing on Battered Immigrant Women Protection Act, at 116, 135-49 (statement of Leslye Orloff).

⁵⁸ See Nvart Idinyan (formerly Nvart Huckfeldt), A75-900-716 (BIA January 20, 2006).

⁵⁹ See Evan Stark & Marianne Hester, *Coercive Control: Update and Review*, 25 VIOLENCE AGAINST WOMEN 81 (2019); Susanne Lohmann et al., *The Trauma and Mental Health Impacts of Coercive Control: A Systematic Review and Meta-Analysis*, 25 TRAUMA, VIOLENCE, & ABUSE 630 (2024).

The harm from coercive control has long-term adverse effects on children who have been subjected to coercive control or who witnessed interparental coercive control.⁶⁰ The cycle of coercive control renders a victim fearful of violence and is encompassed within the definition of “battery or extreme cruelty” established in the Department of Homeland Security (“DHS”) regulations under VAWA.⁶¹

In 1994, the National Council of Juvenile and Family Court Judges created the Family Violence Model State Code to set a standard for the development and implementation of state laws to provide effective responses to domestic violence.⁶² The most recent version of the Model Code, revised in 2022, defines coercive control as “a pattern of conduct that has the purpose or effect of substantially restricting the other parent’s safety or autonomy through intimidation, implicit or explicit threats, or by

⁶⁰ See Emma Katz et al., *When Coercive Control Continues to Harm Children: Post-Separation Fathering, Stalking and Domestic Violence*, 29 CHILD ABUSE REV. 310 (2020); Nakiya Xyrakis et al., *Interparental Coercive Control and Child and Family Outcomes: A Systematic Review*, 25 TRAUMA, VIOLENCE, & ABUSE 22 (2024).

⁶¹ 8 C.F.R. §204.2(c)(1).

⁶² Natl. Council of Juvenile and Family Court Judges, *Family Violence, Model State Code* (1994).

compelling compliance.”⁶³ Courts have acknowledged that abusive behavior is not restricted to a “discrete event,” but rather, “pervades the entire relationship.”⁶⁴

The Board’s finding that Mr. Escolastico’s threats at the party in 2014 were “no longer part of the same previously regular pattern and relationship, occurring after effective legal protections had been put in place,”⁶⁵ ignores the continuity of the parent-child relationship as well as the fact that Mr. Escolastico’s very presence at the party was both part of the pattern of abuse and evidence that the “legal protections” in place were insufficient to protect Mr. Cardenas and his mother. An abuser does not need to make an explicit threat for coercive control to continue: for example, coercive control of a child can include monitoring and surveilling the other parent.⁶⁶ By showing up at the party uninvited and confronting Mr.

⁶³ Natl. Council of Juvenile and Family Court Judges, Family Violence, Model State Code, Chapter 4, p. 16 (2022) (hereinafter “Model State Code”).

⁶⁴ *Hernandez v. Ashcroft*, 345 F.3d 824, 836-37 (9th Cir. 2003); *see also* *Lopez-Birrueta v. Holder*, 633 F.3d 1211, 1217 (9th Cir. 2011) (holding that an abuser “may re-start the abuse when he or she once again has that opportunity”).

⁶⁵ Dkt. 13-2, p. 9.

⁶⁶ Model State Code, p. 31-32.

Cardenas, Mr. Escolastico was intentionally sending a message to Mr. Cardenas and his mother that he could know what they were doing at any moment, and that he had the control, power, and ability to hurt them. Showing up at the party was part of a “well-recognized stage within the cycle of violence,” which was “psychologically and practically crucial” to maintaining control.⁶⁷

Similarly, the Board’s finding that the “improved legal and social position” and the “distance between them and Francisco” made it so the abuse did not rise to the “extreme” level as described by the statute, ignores the fact that abuse is often cyclical. Factors such as distance, legal status, and social position do not necessarily reduce the risk of recurrent domestic violence—post-separation violence and coercive control continue to pose risk to victims.⁶⁸

In determining the risk that a victim faces, social scientists have developed the “Danger Assessment for Immigrant Women” to assess

⁶⁷ Hernandez v. Ashcroft, 345 F.3d at 827.

⁶⁸ See Kathryn J. Spearman et al., *Post-Separation Abuse: A Literature Review Connecting Tactics to Harm*, 21 J FAM TRAUMA CHILD CUSTODY CHILD DEV 145 (2024); Martin R. Huecker et al., *Domestic Violence*, in STATPEARLS (2025).

whether abuse victims are at risk of homicide.⁶⁹ Although the assessment is directed towards partner abuse, because of the risk of spillover violence from Ms. Perdomo to Mr. Cardenas and other members of her family, many of the risk factors for Ms. Perdomo also apply to Mr. Cardenas. The assessment uses 26 indicators to determine the risk of a woman being murdered (or seriously injured) by their partner and ranks the risk of danger on a scale according to the number of and severity of factors. At least 18 of the 26 factors apply here. Specifically:⁷⁰

- *Factor 4: Whether the abuser threatened to kill the victim.*⁷¹ Mr. Escolastico threatened to kill Mr. Cardenas and his mother on multiple occasions, both by directly threatening to kill them and also threatening to have them killed by others.⁷²
- *Factor 5: Whether the abuser is violent and jealous of the victim.*⁷³ Mr. Escolastico accused Mr. Cardenas and his mother of conspiring against

⁶⁹ Messing et al., *Culturally competent intimate partner violence risk assessment: Adapting the Danger Assessment for immigrant women*. SOCIAL WORK RSCH, 37(3), 263 (2013); questionnaire available at https://niwaplibrary.wcl.american.edu/wp-content/uploads/Danger_assessment_update_1.14.21.pdf (last visited Jun. 13, 2025) (hereinafter “DAIW”).

⁷⁰ DAIW, Fig. 1, p.271 (2013).

⁷¹ DAIW, Fig. 1, p.271 (2013).

⁷² Dkt. 13-2, p.29, p. 598, p.622, p. 716, p. 1023.

⁷³ DAIW, Fig. 1, p.271 (2013).

him.⁷⁴ He accused Ms. Perdomo of having sexual encounters with other men, including a 16-year-old friend of Mr. Cardenas, and “checked” Ms. Perdomo’s vagina because he suspected her of having sex with other men.⁷⁵

- *Factor 6. Whether the victim feels shame of the abuse.*⁷⁶ Mr. Cardenas reported that the abuse made him feel bad about who his biological father was and made him worry he wouldn’t do anything with his life.⁷⁷ Ms. Perdomo feels shame of the abuse, particularly related to the fact that she did not “protect” her children.⁷⁸
- *Factor 7: Whether the victim left the abuser after living together.*⁷⁹ After sustaining decades of abuse, Ms. Perdomo separated from Mr. Cardenas very shortly after she received lawful permanent resident status.⁸⁰
- *Factor 8: Whether the abuser prevents the victim from going to school, getting job training, or learning English.*⁸¹ Mr. Escolastico prevented Ms. Perdomo from leaving the house.⁸² He did not allow Mr. Cardenas or Ms. Perdomo to have people over and sealed all the windows in the house with nails.⁸³
- *Factor 9: Whether the victim and abuser are married.*⁸⁴ Ms. Perdomo and Mr. Escolastico were married for nearly twenty years, until their

⁷⁴ Dkt. 13-2, p. 691.

⁷⁵ Dkt. 13-2, p. 604.

⁷⁶ DAIW, Fig. 1, p.271 (2013).

⁷⁷ Dkt. 13-2, p. 412.

⁷⁸ Dkt. 13-2, p. 935.

⁷⁹ DAIW, Fig. 1, p.271 (2013).

⁸⁰ Dkt. 13-2, p. 114.

⁸¹ DAIW, Fig. 1, p.271 (2013).

⁸² Dkt. 13-2, p.60.

⁸³ Dkt. 13-2, p. 604.

⁸⁴ DAIW Fig. 1, p.271 (2013).

divorce in June 2016.⁸⁵ Mr. Cardenas lived in the household with them for at least five years, until 2001 or 2002.⁸⁶

- *Factor 11: Whether the abuser has threatened to report the victim to child protective services, immigration, or other authorities.*⁸⁷ Mr. Escolastico threatened Mr. Cardenas and his mother on numerous occasions, stating that that if they sought help, the whole family would be deported and separated.⁸⁸
- *Factor 13: Whether the victim has children that are not the abuser's.*⁸⁹ Mr. Cardenas is Ms. Perdomo's child from a previous relationship.⁹⁰ This factor is particularly important, as the risk of violence to stepchildren is higher than the risk of violence to the abuser's biological children.⁹¹
- *Factor 14: Whether the abuser forced the victim to have sex when the victim did not want to.*⁹² Sexual control was a large part of Mr. Escolastico's abuse of Ms. Perdomo. Mr. Escolastico would sexually assault Ms. Perdomo and would "check her vagina" to see if she was having sex with other men.⁹³

⁸⁵ Dkt. 13-2, p. 7.

⁸⁶ Dkt. 13-2, p.7, p.145.

⁸⁷ DAIW, Fig. 1, p.271 (2013). Importantly, the very inclusion of this factor demonstrates the role that immigration status can have in relation to abuse and coercive control.

⁸⁸ Dkt. 13-2, p. 26, p. 26-27.

⁸⁹ DAIW, Fig. 1, p.271 (2013).

⁹⁰ Dkt. 13-2, p. 589-90.

⁹¹ See Kristina Block & Jacob Kaplan, *Testing the Cinderella Effect: Measuring Victim Injury in Child Abuse Cases*, 82 J OF CRIM. JUST. 101987 (2022).

⁹² Danger Assessment for Immigrant Women, Fig. 1, p.271 (2013).

⁹³ Dkt. 13-2, p. 604.

- *Factor 15: Whether the abuser has choked/strangled the victim or cut off the victim's breathing.*⁹⁴ Mr. Escolastico choked Ms. Perdomo.⁹⁵ This factor is highly important, as non-fatal strangulation is one of the most significant indicators of lethality in domestic violence.⁹⁶ Strangulation is associated with a six-fold increased risk of homicide for women and is associated with an increased risk of violence to other members of the household.⁹⁷
- *Factor 17: Whether the abuser has threatened harm to the victim's children.*⁹⁸ Mr. Escolastico repeatedly threatened Mr. Cardenas with death and repeatedly beat him with his hands and other objects.⁹⁹
- *Factor 18: Whether the victim was unemployed.*¹⁰⁰ When Ms. Perdomo was married to Mr. Escolastico, he did not allow her to work outside the home for many years.¹⁰¹
- *Factor 20: Whether the abuser has avoided being arrested for domestic violence.*¹⁰² Mr. Escolastico would threaten Mr. Cardenas and his mother, saying that if they went to the police, the police would take away their opportunities to stay in the country legally.¹⁰³ Mr. Escolastico threatened Ms. Perdomo saying that if she went to the

⁹⁴ DAIW, Fig. 1, p.271 (2013).

⁹⁵ Dkt. 13-2, p. 60.

⁹⁶ Nancy Glass et al., *Non-Fatal Strangulation Is an Important Risk Factor for Homicide of Women*, 35 J EMERG MED 329 (2008).

⁹⁷ Susan B. Sorenson et al., *A Systematic Review of the Epidemiology of Nonfatal Strangulation, a Human Rights and Health Concern*, 104 AM J PUB. HEALTH e54 (2014).

⁹⁸ DAIW, Fig. 1, p.271 (2013).

⁹⁹ Dkt. 13-2, p. 108.

¹⁰⁰ DAIW, Fig. 1, p.271 (2013).

¹⁰¹ Dkt. 13-2, p. 60.

¹⁰² DAIW, Fig. 1, p.271 (2013).

¹⁰³ Dkt. 13-2, p. 409.

police, he would make Mr. Cardenas and her other children “disappear.”¹⁰⁴

- *Factor 21: Whether the victim was beaten while pregnant.*¹⁰⁵ While Mr. Cardenas was a young teenager, and Ms. Perdomo was pregnant with his younger brother John, Mr. Cardenas witnessed Mr. Escolastico beat her “nonstop.”¹⁰⁶
- *Factor 23: Whether the victim believes the abuser is capable of killing them.*¹⁰⁷ Mr. Cardenas believes that if he goes back to the Dominican Republic he will be killed because it is “easier to get rid of somebody in the Dominican Republic th[a]n it is in the United States.”¹⁰⁸ Ms. Perdomo clearly stated that she believes that he could kill her and Mr. Cardenas.¹⁰⁹ On one occasion, he beat her so badly, she believes that she would have died were it not for a family member coming by to check on her.¹¹⁰
- *Factor 24: Whether the abuser follows, spies on, leaves threatening notes/voicemails, destroys property, or places unwanted calls to the victim.*¹¹¹ Once separated from Mr. Escolastico, Ms. Perdomo changed the locks.¹¹² This spurred Mr. Escolastico to repeatedly stalk Ms. Perdomo. He would follow her to work so often that coworkers knew to call Mr. Cardenas if Mr. Escolastico showed up outside.¹¹³ Eventually, Ms. Perdomo got a protective order against Mr. Escolastico. Nevertheless, he showed up uninvited at a party, which he thought Mr. Cardenas

¹⁰⁴ Dkt. 13-2, p. 598.

¹⁰⁵ DAIW, Fig. 1, p.271 (2013).

¹⁰⁶ Dkt. 13-2 p. 406-07.

¹⁰⁷ DAIW, Fig. 1, p.271 (2013).

¹⁰⁸ Dkt. 13-2, p.586.

¹⁰⁹ Dkt. 13-2, 1023.

¹¹⁰ Dkt. 13-2, p.60.

¹¹¹ DAIW, Fig. 1, p.271 (2013).

¹¹² Dkt. 13-2, p. 616.

¹¹³ Dkt. 13-2, p. 28.

and Ms. Pedromo would attend, and sought out Mr. Cardenas to confront him.¹¹⁴

- *Factor 25: Whether the victim hides the truth from others because they are afraid of the abuser.*¹¹⁵ Mr. Cardenas and his mother were kept away from other family members and intentionally separated due to coercive control.¹¹⁶
- *Factor 28: Whether the victim has threatened or tried to commit suicide.*¹¹⁷ Ms. Perdomo has threatened and attempted to commit suicide on multiple occasions. On multiple occasions, Mr. Cardenas has been the one she has called to threaten suicide or was called to help following an attempt.¹¹⁸

The proliferation of these factors puts the level of danger in this case as high, reaching the “Severe” or “Extreme” category, exemplifying the continued risk to Mr. Cardenas and his mother. This lethality assessment is consistent with other evidence-based research that demonstrates that the danger of ongoing abuse goes up upon separation.¹¹⁹ Separation from the abuser does not stop or end the abuser’s use of battering or extreme cruelty and coercive control. The fact that one or more incidents of abuse

¹¹⁴ Dkt. 13-2, p.501-02.

¹¹⁵ DAIW, Fig. 1, p.271 (2013).

¹¹⁶ Dkt.13-3, p.60.

¹¹⁷ DAIW, Fig. 1, p.271 (2013).

¹¹⁸ Dkt. 13-2, p. 429-30.

¹¹⁹ See Spearman, *supra* note 68.

constituting extreme cruelty occurred after Mr. Escolastico became a lawful permanent resident is sufficient for Mr. Cardenas to be granted VAWA cancellation of removal, as these incidents were a continuation of the full history of abuse.

IV. CONCLUSION

Failure to grant the relief requested by Mr. Cardenas would set a dangerous precedent that narrows the protections of VAWA for child victims of domestic violence, battering or extreme cruelty, including the clients served by the amici curiae. The Board erred in both its application of VAWA and in its reliance on *Matter of L-L-P*. This Court should remand for the Immigration Judge to grant Mr. Cardenas's petition for review.

V. CERTIFICATE OF BAR MEMBERSHIP

The undersigned certifies pursuant to 3d Cir. L.A.R. 28.3 and 46.1(e) that the attorney whose name appears on the foregoing brief, Joseph Lawlor, is a member of the bar of this Court, admitted on November 6, 2017.

/s/ Joseph Lawlor
Joseph Lawlor

Dated: June 16, 2025

HAYNES AND BOONE, LLP

Pro Bono Counsel for Amici Curiae

VI. CERTIFICATE OF COMPLIANCE WITH 32(a)

This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B)(i) because it contains 6434 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 365 in Book Antiqua 14-point font.

/s/ Joseph Lawlor
Joseph Lawlor

Dated: June 16, 2025

HAYNES AND BOONE, LLP

Pro Bono Counsel for Amici Curiae

VII. CERTIFICATE OF COMPLIANCE WITH L.A.R. 31.1(c)

This document has been scanned for viruses and is reported by SentinelOne Version 24.1.5.277 to be virus free as of the date it was scanned. The text of the electronic brief is identical to the text in the paper copies.

/s/ Joseph Lawlor
Joseph Lawlor

Dated: June 16, 2025

HAYNES AND BOONE, LLP

Pro Bono Counsel for Amici Curiae