

23-929 VELAZQUEZ V. GARLAND

DECISION BELOW: 88 F.4th 1301

LOWER COURT CASE NUMBER: 22-9576

QUESTION PRESENTED:

Federal immigration law allows the government to grant a "voluntary departure" period of up to 60 days to a noncitizen "of good moral character" who receives an adverse decision in removal proceedings. 8 U.S.C. §1229c(b). If the noncitizen fails to depart during that window, he or she is subject to a civil fine and is ineligible for various forms of immigration relief (like cancellation of removal or adjustment of status) for 10 years. §1229c(d)(1). If, however, the noncitizen "file[s] a post-decision motion to reopen or reconsider during the period allowed for voluntary departure," the penalties for failure to voluntarily depart do not apply. 8 C.F.R. § 1240.26(b)(3)(iii).

The question presented is:

When a noncitizen's voluntary-departure period ends on a weekend or public holiday, is a motion to reopen filed the next business day sufficient to avoid the penalties for failure to depart?

CERT. GRANTED 7/2/2024