

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted November 18, 2025*

Decided November 20, 2025

Before

DAVID F. HAMILTON, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 24-3147

GUILLERMO ALVAREZ-MORALES,
Petitioner,

Petition for Review of an Order of the
Board of Immigration Appeals.

v.

No. A206-014-187

PAMELA J. BONDI, Attorney General
of the United States,[†]
Respondent.

ORDER

Guillermo Alvarez-Morales, a Mexican citizen, petitions for review of an order of the Board of Immigration Appeals, which summarily dismissed his appeal from the immigration judge's decision ordering him removed to Mexico. He argues that the Board should have equitably tolled the deadline to appeal because, based on his cultural background, he misunderstood the date his appeal was due. But the record

* By prior order, we granted Alvarez-Morales's motion to waive oral argument.

† Pamela J. Bondi replaced Merrick B. Garland as Attorney General and is substituted as the respondent. *See* FED. R. APP. P. 43(c)(2).

shows that the IJ rendered an oral decision in the presence of the petitioner and his attorney, and that the written summary of the oral decision, which specified the deadline in writing, was served on the attorney but not on the petitioner himself. Because counsel was notified of the appeal deadline, the petitioner's argument is meritless, and we therefore deny the petition.

Alvarez-Morales was admitted to the United States in 2005 on a B-2 visa but remained beyond the 180 days permitted. In 2013, the Department of Homeland Security charged him as removable under 8 U.S.C. § 1227(a)(1)(B) for having remained beyond the period of authorized presence. In 2018, Alvarez-Morales applied for cancellation of removal for non-permanent residents, claiming his removal would result in exceptional and extremely unusual hardship to his then 11-year-old United States citizen son. 8 U.S.C. § 1229b(b)(1).

In 2022, Alvarez-Morales married a United States citizen. Alvarez-Morales's counsel prepared, on the wife's behalf, an I-130 petition for an alien relative. If approved, the I-130 would establish Alvarez-Morales's eligibility to apply to adjust his status to lawful permanent resident as the spouse of a U.S. citizen. *See* 8 C.F.R. § 204.2(a). But his wife decided she did not wish to remain married to Alvarez-Morales and did not sign the I-130 petition. Alvarez-Morales thus requested a continuance so he could attempt to reconcile with his wife.

On December 1, 2023, the IJ denied the motion for continuance, found Alvarez-Morales removable and, in an oral decision, ordered his removal to Mexico. Alvarez-Morales withdrew his application for cancellation of removal without prejudice. The written summary of the oral decision stated that an appeal would be due by "01/02/2024," and the summary was served on Alvarez-Morales's counsel but, notably, not on Alvarez-Morales himself. The first page of the written summary lists his attorney's name and business address in the upper left corner of the page, and the certificate of service contains an "[M]," reflecting service by mail to both DHS and the petitioner's attorney. The box for "Noncitizen" is left blank, reflecting no service on the petitioner personally.

On February 1, 2024, Alvarez-Morales, with assistance of counsel, filed his notice of appeal with the Board of Immigration Appeals, along with a motion to excuse the late filing. In his motion, he explained that he misinterpreted the due date as February 1 (rather than January 2) because in Mexico written dates begin with the day, not the month. Construing the motion as a request for equitable tolling, the Board rejected Alvarez-Morales's argument that his misunderstanding was an extraordinary

circumstance, *see Matter of Morales-Morales*, 28 I. & N. Dec. 714, 716–17 (BIA 2023), and summarily dismissed the appeal as untimely, 8 C.F.R. § 1003.1(d)(2)(i)(G).

Alveraz-Morales maintains that the Board should have equitably tolled the deadline for his appeal. The Board has held that deadlines to file a notice of appeal may be equitably tolled, borrowing from the standard applied by the Supreme Court to habeas petitions. *Morales-Morales*, 28 I. & N. Dec. at 716–17 (citing *Holland v. Florida*, 560 U.S. 631, 649 (2010)). We have taken the same approach with other immigration deadlines. *See, e.g., Herrera-Garcia v. Barr*, 918 F.3d 558, 563 (7th Cir. 2019) (citing *Holland*, 560 U.S. at 649). A deadline may be equitably tolled if a petitioner shows that he pursued his rights diligently and that an extraordinary circumstance prevented him from filing on time. *Id.*

Alvarez-Morales argues that he presented an extraordinary and compelling circumstance: his cultural misunderstanding of how dates are written in the United States. But this is contradicted by the record. Alvarez-Morales was represented throughout his immigration proceedings by counsel—the same lawyer who represents him in this petition. Counsel had notice of the appeal deadline, through both the oral decision and the written summary provided afterward.

The decision of an IJ may be either oral or written. 8 C.F.R. § 1240.12(a). In this case, the IJ issued an oral decision, which, by regulation, must be rendered in the presence of the noncitizen, 8 C.F.R. § 1240.13(b), and which should include a notification of the appeal deadline, *see* IMMIGRATION COURT PRACTICE MANUAL § 4.16(h) (after the IJ renders his decision at an individual hearing, he should “inform[] the parties of the deadline for filing an appeal ... unless the right to appeal is waived.”). Even if the IJ did not state the appeal deadline on the record, counsel represented the petitioner at the time the oral decision was rendered. Thus, at a minimum, he was constructively aware of the appeal deadline because he was aware of the date on which the IJ ordered Alvarez-Morales removed.

Furthermore, the record shows that counsel—not Alvarez-Morales—was served with the written summary of the IJ’s oral decision. *See* 8 C.F.R. § 1240.13(b). Alvarez-Morales makes no argument that the record does not accurately reflect the proceedings. And, in any event, we apply a presumption of regularity to immigration proceedings. *See Kiorkis v. Holder*, 634 F.3d 924, 928 (7th Cir. 2011), *as amended* (Mar. 10, 2011). This includes the certificate of service on the written summary, electronically signed by an immigration court clerk. Alvarez-Morales could not have misunderstood the date on the written summary that was mailed to his attorney but not to him.

We need not decide whether a noncitizen's cultural misunderstanding of dates could be an extraordinary and compelling circumstance because the record does not support even an opportunity for such a misunderstanding. Rather, the issue is that Alvarez-Morales's lawyer was notified of and then missed the deadline. We and the Supreme Court have both said, in the parallel habeas context, that an attorney's failure to meet a known deadline is not an extraordinary and compelling circumstance warranting equitable tolling. *E.g., Lawrence v. Florida*, 549 U.S. 327, 336–37 (2007); *Conner v. Reagle*, 82 F.4th 542, 551 (7th Cir. 2023).

Alvarez-Morales also suggests that the Board gave inadequate consideration to his argument for equitable tolling. When reviewing an administrative agency's decision not to excuse a late filing, this court requires that the agency "weigh intangible factors specific to the individual case." *See Madison v. U.S. Dep't of Lab.*, 924 F.3d 941, 946 (7th Cir. 2019). Here, the Board addressed the sole factor that Alvarez-Morales raised in his motion, his purported misunderstanding, and determined that such a misunderstanding was not an extraordinary and compelling circumstance. This determination was commensurate with the cursory argument raised in his motion. Alvarez-Morales does not suggest in his brief that the Board overlooked any other circumstance in his favor.

For these reasons, we DENY Alvarez-Morales's petition for review.