

Do Weekends Count? SCOTUS Decides They Don't for Voluntary-Departure Deadline

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May 8, 2025

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Takeaways

- Voluntary-departure deadlines are extended to the next business day when they fall on weekends or legal holidays.
- Courts may review final orders of removal and all questions of law arising from them.
- The decision provides clarity for immigration judges and attorneys.

Related link

- [*Monsalvo Velázquez v. Bondi*](#)

Article

On calculating a noncitizen's voluntary-departure deadline, the U.S. Supreme Court held that a deadline that falls on a weekend or legal holiday automatically extends to the next business day. [*Monsalvo Velázquez v. Bondi*](#), No. 23-929 (Apr. 22, 2025).

The Court rejected the U.S. Court of Appeals for the Tenth Circuit's ruling that the voluntary-departure deadline in 8 U.S.C. § 1229c(b)(2) refers to calendar days with no extension for deadlines that fall on weekends or holidays. In the 5-4 decision resolving a circuit split, the Court remanded the case back to the Tenth Circuit.

The Court also held that under 8 U.S.C. § 1252, courts may review "final order[s] of removal" and "all questions of law" arising from them — regardless of whether a petition included a challenge to removability.

The voluntary-departure deadline decision is in accordance with "longstanding administrative construction," the Court said, whereby immigration regulations have provided that when calculating deadlines, the term "day" excludes weekends and legal holidays if a deadline would otherwise fall on one of those days. Congress set forth the maximum number of "days" allowed for voluntary departure in § 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). In rejecting the government's arguments, the Court noted that § 304 of IIRIRA should be read in light of the government's longstanding regulatory practice. Moreover, the Court noted that nothing in § 304 nor the government's promulgated rules hints that deadlines should operate differently. Additionally, the Court said, § 304 does not distinguish between "procedural" and "substantive" deadlines, and the regulatory background does not suggest this distinction.

The Court's decision is also in line with *Meza-Vallejos v. Holder*, 669 F.3d 920 (9th Cir. 2012). In that case, the U.S. Court of Appeals for the Ninth Circuit held that when a noncitizen's deadline for voluntary departure falls on a weekend or holiday, the

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noncitizen has until the next business day to file a post-decision motion to reopen or reconsider.

In rejecting the government’s argument that under 8 U.S.C. § 1252, a petition must include a challenge to removability to secure judicial review, the Court noted that “such an interpretation would force litigants to assert meritless claims simply to obtain jurisdiction.”

The decision provides clarity for immigration judges and attorneys.

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