

18-776 GUERRERO-LASPRILLA V. BARR

DECISION BELOW: 737 Fed.Appx. 230

LOWER COURT CASE NUMBER: 17-60333

QUESTION PRESENTED:

The deadline to file a statutory motion to reopen under 8 U.S.C. § 1229a(c)(7) is subject to equitable tolling; all the courts of appeals are in agreement. But they are in conflict as to whether they have jurisdiction to review an agency's denial of a request for equitable tolling made by someone subject to the "criminal alien bar" pursuant to 8 U.S.C. § 1252(a)(2)(C).

The Fifth and Fourth circuit say review of equitable tolling is a "question of fact" precluded from review under 8 U.S.C. § 1252(a)(2)(C). In contrast, the Ninth circuit says equitable tolling is a "mixed question," i.e., "a question of law," which falls under the jurisdictional savings clause under 8 U.S.C. § 1252(a)(2)(D).

Therefore, the question presented is:

Is a request for equitable tolling, as it applies to statutory motions to reopen, judicially reviewable as a "question of law?"

CONSOLIDATED WITH 18-1015 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 6/24/2019