



For Immediate Release

Eleventh Circuit Holds that Filing Limitations on Motions to Reopen Are Subject to Equitable Tolling

April 23, 2013

Washington, D.C. – Over the last two weeks, the Eleventh Circuit issued two decisions holding that the time and numerical limitations on motions to reopen are subject to equitable tolling. Noncitizens ordered removed in the Eleventh Circuit now may seek, under certain circumstances, to reopen their cases even if they already have filed a motion to reopen or the applicable deadline for filing motions has passed.

In [*Avila-Santoyo v. Holder*](#), — F.3d. —, No. 11-14941 (11th Cir. Apr. 12, 2013) (en banc), the court granted rehearing en banc and overturned Circuit precedent that had barred equitable tolling, finding that the filing deadline is not jurisdictional and may thus be tolled. The court also granted rehearing and issued a unanimous panel decision in [*Ruiz-Turcios v. Holder*](#), — F.3d. —, No. 12-11503 (11th Cir. Apr. 19, 2013), holding that the numerical limitation on motions to reopen (i.e., the one motion rule) may be tolled. The LAC and the National Immigration Project of the National Lawyers Guild submitted an *amicus* brief in support of the petition for rehearing in *Ruiz-Turcios*.

With its decisions in *Avila-Santoyo* and *Ruiz-Turcios*, the Eleventh Circuit joins seven other courts of appeals in holding that the filing limitations are subject to equitable tolling. The First and Fourth Circuits have yet to issue precedential decisions on the issue, and the Fifth Circuit held that it lacks jurisdiction to review decisions to deny equitable tolling. *See, e.g., Ramos–Bonilla v. Mukasey*, 543 F.3d 216 (5th Cir. 2008). The LAC and NIPNLG are working to ensure that noncitizens in these circuits have the same opportunity to be heard in immigration court. If you have a case involving equitable tolling of the motion to reopen filing limitations in the First, Fourth, or Fifth Circuit, please contact us at clearinghouse@immcouncil.org.

Read more about LAC's work to provide noncitizens access to courts on [our website](#).

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For more information, contact clearinghouse@immcouncil.org.