

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 27 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

A.A., a minor, by and through his Guardian
ad Litem, Lorena Arreola,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA,

Defendant-Appellee.

No. 17-55758

D.C. No.

3:15-cv-01244-H-WVG

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Marilyn L. Huff, District Judge, Presiding

Argued and Submitted October 11, 2018
Pasadena, California

Before: SCHROEDER and NGUYEN, Circuit Judges, and SIMON,** District
Judge.

A.A. appeals the district court's grant of summary judgment in favor of the
United States. We have jurisdiction under 28 U.S.C. § 1291. *See United States v.*

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

** The Honorable Michael H. Simon, United States District Judge for the
District of Oregon, sitting by designation.

Kwai Fun Wong, 135 S. Ct. 1625, 1629 (2015). Reviewing de novo, *see Booth v. United States*, 914 F.3d 1199, 1203 (9th Cir. 2019), we affirm.

“[A]n attorney’s filing by mail shortly before a deadline expires constitutes routine negligence.” *Okafor v. United States*, 846 F.3d 337, 340 (9th Cir. 2017). Even if the deadline would not have been missed but for the courier’s delivery delay, we “do not recognize run-of-the mill mistakes as grounds for equitable tolling” because they do not amount to an “extraordinary circumstance.” *Id.* (quoting *Luna v. Kernan*, 784 F.3d 640, 646 (9th Cir. 2015)). That the U.S. Postal Service and the U.S. Department of Health and Human Services are both branches of the federal government makes no difference. The Postal Service is “an independent establishment of the executive branch,” *Currier v. Potter*, 379 F.3d 716, 725 (9th Cir. 2004) (quoting 39 U.S.C. § 201), that is “run more like a business,” *id.* (quoting *Franchise Tax Bd. v. U.S. Postal Serv.*, 467 U.S. 512, 519–20 (1984)).

AFFIRMED.