



U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy

EI



FILE:



Office: HARLINGEN, TX

Date: NOV 30 2006

IN RE:

Applicant:



APPLICATION: Application for Certificate of Citizenship pursuant to former Section 322 of the Immigration and Nationality Act, 8 U.S.C. § 1433, now repealed

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Harlingen, Texas and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The record reflects that the applicant was born on December 20, 1987 in Mexico. The applicant's father, [REDACTED], also born in Mexico, became a U.S. citizen on April 9, 1976. The applicant seeks a certificate of citizenship based on his claim that he has acquired U.S. citizenship through his father's naturalization.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal with the office that issued the denial within 30 days of service of the decision. If the decision is mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the district director issued his decision on April 19, 2006, in which he notified the applicant that he had 30 days to file an appeal. On May 8, 2006, Citizenship and Immigration Services (CIS) received a letter from the applicant's father regarding the denial of the applicant's Form N-600K. In response, CIS provided the applicant with the Form I-290B, Notice of Appeal to the Administrative Appeals Office, and informed him that it was to be submitted before May 18, 2006. The applicant filed an unsigned Form I-290B on May 16, 2006, which was returned to him on that date. The signed Form I-290B was received by CIS on Tuesday, May 23, 2006, 34 days after the district director denied the application. Therefore, the applicant has not met the filing requirements for an appeal.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the district director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The district director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

As the appeal was untimely filed, the appeal must be rejected.

**ORDER:** The appeal is rejected.