

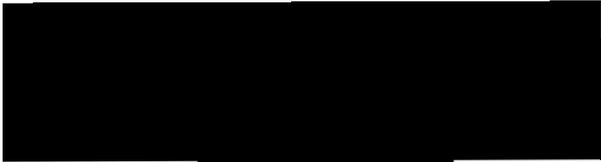


U.S. Citizenship
and Immigration
Services

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FILE:



Office: SEATTLE, WA

Date: OCT 10 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

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Seattle, Washington 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 6, 1970 in West Germany. The applicant's father, [REDACTED] was born on October 24, 1942 in Springfield, Illinois. The applicant seeks a certificate of citizenship as the adopted child of a U.S. citizen father under former section 322 of the Immigration and Nationality (the Act).

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 January 20, 2006, in which he notified the applicant that she had 33 days to file an appeal and that the appeal should be submitted to the Yakima, Washington suboffice. The matter was subsequently reopened in response to a letter from the applicant, received on or about February 13, 2006, with the district director's denial affirmed on April 26, 2006. In that decision, the applicant was again informed of her right to appeal the decision.

The applicant sent her appeal directly to the AAO, rather than to the Yakima suboffice. As a result, it was not received at the suboffice until June 19, 2006, 54 days after the district director denied the petition. Therefore, the petitioner 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.