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U.S. Citizenship
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Services

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[REDACTED]

SEP 28 2007

FILE:

[REDACTED]

Office: CLEVELAND, OH

Date:

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application to Preserve Residence for Naturalization Purposes under section 316(b) of the Immigration and Nationality Act, 8 U.S.C. § 1427.

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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 to Preserve Residence for Naturalization Purposes (Form N-470) was denied by the District Director, Cleveland, Ohio. A subsequent appeal was rejected by the Administrative Appeals Office (AAO) as untimely filed. The matter is before the AAO on a second appeal. The appeal will be rejected and the March 22, 2007 AAO order rejecting the appeal will be affirmed.

In a decision dated March 22, 2007, the AAO found the applicant had failed to demonstrate that her appeal was received by the Cleveland, Ohio District Office within 33 days of issuance of her decision, as required by 8 C.F.R. § 103.5a(b). Neither the Immigration and Nationality Act nor the pertinent regulations grant the AAO authority to extend the 33-day time limit for filing an appeal. The AAO noted that if an untimely appeal meets the requirements of a motion to reopen or reconsider, the appeal is returned to the official who made the last decision and treated as a motion, with a decision being made on the merits of the case. *See* 8 C.F.R. § 103.3(a)(2)(v)(B)(2). The applicant's appeal did not meet the requirements of a motion to reopen or reconsider. The appeal was therefore rejected as improperly filed pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(1).

The applicant filed a second Notice of Appeal to the AAO (Form I-290B) on April 25, 2007, indicating that her initial appeal was untimely because she mistakenly sent the appeal to the AAO rather than to the Cleveland, Ohio district office, and stating that she contests her denial and requests oral argument before the AAO. No other assertions or claims were made.

There is nothing in the regulations to allow for the appeal of an AAO decision. Therefore, this appeal must also be rejected.

ORDER: The appeal is rejected and the AAO decision dated March 22, 2007, is affirmed.