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**U.S. Citizenship  
and Immigration  
Services**

*E 2*

[REDACTED]

FILE: [REDACTED]

Office: HOUSTON, TEXAS Date: **SEP 16 2004**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under Section 301 of the Immigration and Nationality Act; 8 U.S.C. § 1401.

ON BEHALF OF APPLICANT:

[REDACTED]

**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.

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

Robert P. Wiemann, Director  
Administrative Appeals Office

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

The record reflects that the applicant was born on December 26, 1976, in Mexico. The applicant's father, [REDACTED] was born in Texas on June 15, 1926, and he is a U.S. citizen. The applicant's mother, [REDACTED] was born in Mexico on October 1, 1941. She became a naturalized U.S. citizen on August 18, 2000, when the applicant was twenty-three years old. The applicant's parents were married on September 26, 1959, in Mexico. The applicant seeks a certificate of citizenship pursuant to section 301(a)(7) of the former Immigration and Nationality Act (the former Act); 8 U.S.C. § 1401(a)(7), based on the claim that he acquired U.S. citizenship at birth through his father.

The director found the applicant had failed to establish that his father was physically present in the United States or its outlying possessions for a period totaling ten years, at least five years of which occurred after his father reached the age of fourteen. The application was denied accordingly.

On appeal, counsel asserts that he is submitting a separate brief. The AAO notes that the record does not contain a separate brief and the appeal contains no separate statements pertaining to the applicant's appeal.

8 C.F.R. § 103.3(a)(2)(v)(B)(2) states in pertinent part, that, "[a]n appeal which is not filed within the time allowed must be rejected as improperly filed."

The director's decision and the Form I-290B, Notice of Appeal to the Administrative Appeals Office (Notice of Appeal) state clearly that the appeal of an unfavorable decision must be made to the AAO within 30 calendar days of the decision (33 days if the decision is mailed). The Notice of Appeal filed by counsel states further that, "if an applicant needs more than 30 days to file an appeal, the applicant must explain why in a separate letter attached to the Notice of Appeal. The AAO will grant more time only for good cause.

The record reflects that the director's decision denying the application is dated October 15, 2003. However, the applicant's appeal was not filed until December 30, 2003, well after the 30 (33) days allowed for filing, and the appeal contained no letter or information explaining the cause for the late filing. Accordingly the appeal will be rejected as improperly filed.

**ORDER:** The appeal is rejected.