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

E3



FILE:



Office: LOS ANGELES, CA

Date: **NOV 15 2005**

IN RE:

Applicant:



APPLICATION: Application for Replacement Naturalization/Citizenship Document under Section 338 of the Immigration and Nationality Act, 8 U.S.C. § 1149.

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.

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Los Angeles, California. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

Volume 8 of the Code of Federal Regulations (8 C.F.R.) section 103.3(a)(2)(i) provides that in order to properly file an appeal, the affected party must file the complete appeal within 30 days after service of the unfavorable decision (within 33 days if the decision was mailed).

The record reflects that the district director issued the applicant's denial decision on September 23, 2003. The decision properly gave notice to the applicant that he had 30 (33) days to file his appeal. The record reflects that the applicant's appeal was received by U.S. Citizenship and Immigration Services (CIS) without payment on December 9, 2003, and that it was properly filed with CIS on December 17, 2003, more than 33 days after his denial decision was issued.¹

8 C.F.R. § 103.3(a)(2)(i) states that, "[t]he affected party shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 [33] days after service of the decision." 8 C.F.R. § 103.3(a)(2)(v)(B)(2) provides further that an appeal which is not filed with the AAO within the time allowed must be rejected as improperly filed. The record reflects that the present appeal was untimely filed. The appeal must therefore be rejected.

ORDER: The appeal is rejected.

¹ The AAO notes that the applicant has provided evidence that the application was not actually mailed until November 5, 2003, but even taking that into account, the appeal was not properly filed until 42 days after the mailing.