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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



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

E3



Date: **AUG 22 2011** Office: NEBRASKA SERVICE CENTER FILE: LIN 11 035 50125

IN RE: Applicant:

APPLICATION: Application for Replacement Naturalization/Citizenship Certificate Document

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

**INSTRUCTIONS:**

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

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 within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the director issued her decision on March 8, 2011. It is noted that the director properly gave notice to the applicant that he had 33 days to file the appeal and indicated that the appeal must be with the appropriate fee. *See* Director's Decision at 2. The Form I-290B, Notice of Appeal, was initially rejected for failure to submit the required fee and was not properly filed and received until May 13, 2011, which was more than 33 days after the decision was issued. Accordingly, the appeal was untimely filed and must be rejected.<sup>1</sup>

**ORDER:** The appeal is rejected.

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<sup>1</sup> Neither the Immigration and Nationality Act (the Act) nor the regulations grant the AAO authority to extend the 33-day time limit for filing an appeal. This appeal does not meet the requirements of a motion to reopen or reconsider under the regulations at 8 C.F.R. §§ 103.5(a)(2) and (3) and therefore need not be treated as such. *See* 8 C.F.R. § 103.3(a)(2)(v)(B)(2). Section 343 of the Act, 8 U.S.C. § 1454, and the corresponding regulations at 8 C.F.R. § 343a provide, in relevant part, for the replacement of certificates of naturalization and citizenship when the original document has been lost, mutilated or destroyed; or when the citizen's name has been changed pursuant to a court order. U.S. Citizenship and Immigration Services records indicate that the applicant was never issued a Certificate of Citizenship nor has the applicant submitted proof that such a certificate was issued to him.