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

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FILE: [REDACTED] Office: PHILADELPHIA, PA

Date: **JAN 31 2005**

IN RE: Applicant: [REDACTED]

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.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

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

The applicant is a native of Vietnam and a naturalized citizen of the United States. He seeks to have his Certificate of Naturalization corrected under section 338 of the Immigration and Nationality Act (the Act); 8 U.S.C. § 1449, to reflect a change in his marital status from married to single.

The interim district director reviewed the record and determined that the applicant's request was not justifiable under section 338 of the Act and 8 C.F.R. §§ 338.5 and 334.16. The application was denied accordingly.

The applicant asserts on appeal that he has never been married and that the person who completed his U.S. immigration and naturalization documentation provided erroneous marital status information.

8 C.F.R. § 103.3(a)(2) states in pertinent part:

(i) Filing appeal. The affected party shall file an appeal on Form I-290B. Except as otherwise provided in this chapter, the affected party must pay the fee required by § 103.7 of this part. The affected party shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

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 interim district director's decision also states 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 interim district director's decision denying the application is dated May 6, 2004. The record reflects, however, that the applicant's Form I-290, Notice of Appeal was filed on June 14, 2004, after the 30 (33) days allowed for filing. The appeal will therefore be rejected as improperly filed.

ORDER: The appeal is rejected.