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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship
and Immigration
Services

[redacted]

FILE: [redacted] Office: PHILADELPHIA, PA Date: SEP 16 2004

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, Director
Administrative Appeals Office

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

The applicant is a native of Ethiopia 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 date of birth from July 21, 1957 to July 21, 1967.

The district director reviewed the applicant's record and determined that his request was not justifiable. The application was denied accordingly.

The applicant asserts on appeal that his birth certificate establishes his correct date of birth. The applicant additionally asserts that he asked the Immigration and Naturalization Service (INS, now Citizenship and Immigration Services, CIS) to correct his birth date prior to naturalization proceedings, but that the INS failed to do so.

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 district director's decision to the applicant and the Form I-290B, Notice of Appeal to the Administrative Appeals Office (Form I-290B) 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 Form I-290B 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 Form I-290B. The AAO will grant more time only for good cause."

The present record reflects that the district director's decision denying the application for Replacement Naturalization/Citizenship Document is dated October 22, 2003. The applicant's appeal was not filed until February 20, 2004, well after the 30 (33) days allowed for filing, and the appeal contained no letter or information explaining the cause for the late filing. The appeal will therefore be rejected as improperly filed.

ORDER: The appeal is rejected.