



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

(b)(6)

Date: MAR 15 2013

Office: DENVER, CO

FILE: [REDACTED]

IN RE:

Applicant: [REDACTED]

APPLICATION:

Application for a Certificate of Citizenship under former Section 301(a)(7) of the Act, 8 U.S.C. § 1401(a)(7) (1955).

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.

Thank you.

A handwritten signature in black ink, appearing to read "Ron Rosenberg", written over a horizontal line.

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Denver, Colorado, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed. The AAO will return the matter to the field office director for consideration as a motion to reopen and reconsider.

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. § 103.8(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). Neither the Act nor the pertinent regulations grant the AAO authority to extend this time limit.

The record indicates that the field office director issued her decision on October 8, 2010. It is noted that the director properly gave notice to the applicant that she had 33 days to file the appeal. The applicant did not file any timely appeal of the director's October 8, 2010 decision. Instead, the applicant filed a new Form N-600, Application for Certificate of Citizenship, on November 29, 2011. On December 20, 2011, the applicant's new Form N-600 was rejected pursuant to the regulations, at 8 C.F.R. § 341.6, which require that a subsequent Form N-600 be rejected and the applicant instructed to file a motion to reopen. The instant Form I-290B, Notice of Appeal or Motion, was received on June 26, 2012. The applicant indicates in the Form I-290B that she is seeking to appeal the December 20, 2011 rejection of her application.

There is no appeal of a rejection notice under either the Act or the regulations. The AAO notes, however, that the instant Form I-290B is accompanied by additional evidence relating to the applicant's eligibility for a certificate of citizenship. As such, it can be deemed to be a request for reopening and/or reconsideration of the field office director's October 8, 2010 decision, pursuant to 8 C.F.R. § 341.6. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the field office director, Denver, Colorado. *See* 8 C.F.R. § 103.5(a)(1)(ii). The matter will therefore be returned to the field office director to determine whether reopening is warranted.

If the field office director determines that the late appeal meets the requirements of a motion, the motion shall be granted and a new decision issued.

ORDER: The appeal is rejected. The matter is returned to the field office director for action consistent with this decision.