



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: **JUL 28 2014**

Office: HELENA, MT

FILE: [REDACTED]

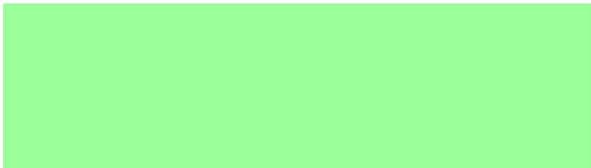
IN RE:

Applicant: [REDACTED]

APPLICATION:

Application for Certificate of Citizenship under former Sections 301 and 309 of the Immigration and Nationality Act; 8 U.S.C. §§ 1401 and 1409 (1985).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director of the Helena, Montana Field Office (the director) denied the Application for Certificate of Citizenship (Form N-600) and the matter came before the Administrative Appeals Office (AAO) on appeal. The AAO dismissed the appeal and the applicant has filed motions to reopen and reconsider the AAO's decision. The motions will be dismissed as untimely.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that a motion to reopen or reconsider must be filed by the affected party within 30 days of the adverse decision. If the decision was mailed, the motion must be filed within 33 days. 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 with respect to motions to reconsider. Failure to file a timely motion to reopen "may be excused . . . where it is demonstrated that the delay was reasonable and was beyond the control of the applicant" *See* 8 C.F.R. § 103.5(a)(1)(i).

We issued our decision in this case on October 25, 2013, at which time we properly gave notice to the applicant of the applicable motion filing period. To meet the 33-day filing period, the instant motions should have been received by U.S. Citizenship and Immigration Services (USCIS) by Wednesday, November 27, 2013. However, the motions were not filed until November 29, 2013, or 35 days after issuance of our decision dismissing the appeal.¹ Accordingly, the motions were untimely filed.

As noted above, we may not excuse the late filing of a motion to reconsider; however, a filing delay for a motion to reopen may be excused at our discretion if the applicant demonstrates that the delay was reasonable and beyond his control. Here, the motion does not fit within the regulatory requirements for reopening. *See* 8 C.F.R. § 103.5(a)(2) (providing for reopening when a motion states new facts supported by affidavits or other documentary evidence). Moreover, neither counsel nor the applicant explains why the late filing was beyond his control.

Accordingly, as the motions were untimely filed, we must dismiss them for failing to meet applicable requirements. 8 C.F.R. § 103.5(a)(4).

ORDER: The joint motions to reopen and reconsider are dismissed. Our prior decision dismissing the appeal, dated October 25, 2013, is affirmed. The Form N-600 remains denied.

¹ The U.S. Postal Service receipt indicates that the joint motion was mailed on November 26, 2013 via priority mail express 2-Day, with an estimated delivery date of November 29, 2013.