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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:

Office: TEXAS SERVICE CENTER Date:

JAN - 2 2009

IN RE:

APPLICATION: Application for Replacement Naturalization/Citizenship Document under Section 338
of the Immigration and Nationality Act, 8 U.S.C. § 1449.

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.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

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

The applicant is a native of Mexico and a naturalized citizen of the United States. She seeks to have her Certificate of Naturalization re-issued under section 338 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1449, as she lost her Certificate of Naturalization.

The director, after determining that the applicant had failed to respond to her request for evidence, denied the instant application due to abandonment. *Decision of the Director*, dated May 15, 2008.

On appeal, the applicant contends that she responded to the director's notice by the required date, and a case status search reflects that the evidence was received and the case resumed. *Form I-290B*, at 2, received June 2, 2008. The record does not include evidence of the requested information.

A denial due to abandonment may not, however, be appealed. *See* 8 C.F.R. § 103.2(b)(15). Therefore, the appeal will be rejected.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) allows an individual whose application has been denied due to abandonment to file a motion to reopen the proceeding. In the present case, the 33 day filing period precludes the applicant from submitting a motion to reopen, unless the applicant demonstrates that the delay in filing was reasonable and beyond her control.

The applicant may, however, file a new Form N-565. Withdrawal or denial due to abandonment does not preclude the filing of a new application or petition with a new fee, although the priority or processing date of a withdrawn or abandoned application or petition may not be applied to a later application or petition. Withdrawal or denial due to abandonment shall not itself affect the new proceeding; but the facts and circumstances surrounding the prior application or petition shall otherwise be material to the new application or petition. *See* 8 C.F.R. § 103.2(b)(15).

ORDER: The appeal is rejected.