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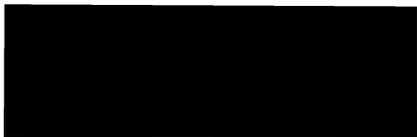
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U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. 3000  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**E1**



FILE: [REDACTED]

Office: BUFFALO, NY

Date: MAR 04 2009

IN RE: Applicant: [REDACTED]

APPLICATION: Application to Preserve Residence for Naturalization Purposes under Section 316(b) of the Immigration and Nationality Act, 8 U.S.C. § 1427(b).

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The application to preserve residence for naturalization purposes was denied by the Field Office Director, Buffalo, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. §§ 103.2(b)(15) and 103.3.

The applicant sought to preserve his residence for naturalization purposes pursuant to section 316(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1427(b).

On December 2, 2008, the director denied the petition due to abandonment, because the applicant failed to respond to a request for additional information dated June 17, 2008 within twelve weeks. 8 C.F.R. §§ 103.2(b)(8) and (13). Although the field office director indicated in his decision that the applicant may appeal the decision to the AAO, there is no right to an appeal from an abandonment denial. 8 C.F.R. § 103.2(b)(15). However, the petitioner, *inter alia*, could have filed a motion with U.S. Citizenship and Immigration Services (USCIS). The official having jurisdiction over a motion is the official who made the latest decision in the proceeding, i.e., the field office director in Buffalo, New York. 8 C.F.R. § 103.5(a)(ii).

On December 29, 2008, the applicant filed a Form I-290B, Notice of Appeal or Motion, and indicated in Part 2 that he is "filing an appeal." As noted above, there is no appeal from an abandonment denial, and the appeal must be rejected by the AAO. Nevertheless, it is noted that, before forwarding the improperly filed appeal to the AAO, the record indicates that the field office director considered the appeal as a motion and reviewed the additional evidence submitted by the applicant with the Form I-290B. However, the field office director concluded that this evidence did not warrant the reopening or reconsideration of the application as it does not appear as if the beneficiary is eligible for the benefit sought. Specifically, the field office director noted that the applicant failed to establish that he is employed by, or under contract, with the Government of the United States or an American institution of research, i.e., Indiana University.

Accordingly, the AAO must reject the appeal for lack of jurisdiction. *See* 8 C.F.R. §§ 103.2(b)(15) and 103.3.

**ORDER:** The appeal is rejected.