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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:

Office: HOUSTON, TX

Date:

JAN 21 2010

IN RE:

APPLICATION: Application for Certificate of Citizenship under Section 320 of the former Immigration and Nationality Act, 8 U.S.C. § 1431 (2000).

ON BEHALF OF APPLICANT:

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).

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Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Houston, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

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. § 103.5a(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).

The record indicates that the field office director issued the decision on February 20, 2009. It is noted that the field office director properly gave notice to the applicant that he had 33 days to file the appeal. *See* Decision of the Field Office Director. The Form I-290B, Notice of Appeal, was received on March 30, 2009, which was 39 days after the decision was issued.¹ Accordingly, the appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.

¹ The AAO notes that the appeal was dated and mailed on March 24, 2009, and initially received on March 25, 2009, 34 days after the denial of the application and therefore also untimely. The appeal was improperly filed because it did not have a signature, and was returned to the applicant. *See* 8 C.F.R. § 103.2(a)(2), (7)(i) (requiring signature on all forms).