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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



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



E₂

DATE: APR 07 2011

Office: [REDACTED]

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship

ON BEHALF OF APPLICANT:



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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, [REDACTED], [REDACTED] and the matter 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 director issued the decision on August 30, 2010, and properly gave notice to the applicant that he had 33 days to file the appeal. The director's decision specifically informed the applicant that the appeal may not be filed directly with the AAO, but that it had to be filed with the [REDACTED] Field Office. The Form I-290B, Notice of Appeal, was received by the [REDACTED] Field Office on October 6, 2010, more than 33 days after the decision was issued. Accordingly, the appeal was untimely filed and must be rejected.¹

ORDER: The appeal is rejected.

¹ Neither the Immigration and Nationality Act nor the regulations grant the AAO authority to extend the 33-day time limit for filing an appeal. The application was denied for failure to establish eligibility for U.S. citizenship under sections 320 or 322 of the Act, 8 U.S.C. § 1431 and 1433. The applicant submitted additional documentary evidence subsequent to his appeal, but no argument or explanation as to how they pertain to the applicant's claim of citizenship under the provisions cited or any other section of the Act. The appeal therefore does not meet the requirements of a motion to reopen or reconsider under the regulations at 8 C.F.R. § 103.5(a)(2) and (3) and therefore need not be treated as such. *See* 8 C.F.R. § 103.3(a)(2)(v)(B)(2).