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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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[redacted]

Date: DEC 15 2011 Office: NEW ORLEANS, LA FILE: [redacted]

IN RE: [redacted]

APPLICATION: Application for Certificate of Citizenship under former section 321 of the Immigration and Nationality Act, 8 U.S.C. § 1432

ON BEHALF OF APPLICANT:

[redacted]

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 for Certificate of Citizenship (Form N-600) was denied by the District Director, New Orleans, Louisiana, and the Administrative Appeals Office (AAO) rejected the appeal. The AAO subsequently granted a motion to reopen and dismissed the appeal. The matter is now before the AAO on a second motion to reopen. The motion will be dismissed as untimely filed.

In order to properly file a motion, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party must file the motion within 30 days of service of the unfavorable decision. If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b). The failure to file a motion to reopen before this period expires may be excused at the discretion of the AAO where it is demonstrated that the delay was reasonable and beyond the control of the petitioner. 8 C.F.R. § 103.5(a)(1)(i). A motion that does not meet the applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The last decision of the AAO was issued on September 14, 2006. The Form I-290B, Notice of Appeal or Motion was not properly filed until October 27, 2011, over five years after the AAO decision was issued.

On motion, counsel does not assert or demonstrate that the delay in filing the motion was reasonable and beyond the applicant's control.[1]

As a matter of discretion, the applicant's failure to file the motion within the period allowed will not be excused as either reasonable or beyond the control of the applicant. Accordingly, the motion will be dismissed.

ORDER: The motion is dismissed.

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[1] Counsel makes reference to the filing of a second Form N-600 and a subsequent denial by the District Director, Baltimore, Maryland; however, the record reflects that the Baltimore District Office properly rejected the Form N-600 for lack of jurisdiction pursuant to the regulations at 8 C.F.R. §§ 103.5(a)(1)(ii), 341.6.