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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

**PUBLIC COPY**



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DATE: **MAY 02 2011**

Office:

FILE:

IN RE: Applicant:

APPLICATION: Application for Certificate of Citizenship under Former Section 301(a)(7) of the Immigration and Nationality Act; 8 U.S.C. § 1401(a)(7) (1972).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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.

Thankyou,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Field Office Director, [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 field office director issued her decision on November 29, 2010. It is noted that the field office director properly gave notice to the applicant that any appeal had to be filed with a filing fee of \$630 within 33 days from the date of the decision. *See* Decision of the Field Office Director at 2. The record indicates that the Form I-290B, Notice of Appeal, was received on or about December 30, 2010 but it appears that the filing fee was not received until January 21, 2011, which was more than 33 days after the decision was issued. Accordingly, the appeal was untimely filed and must be rejected.<sup>1</sup>

**ORDER:** The appeal is rejected.

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<sup>1</sup> 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 applicant's appeal does not meet the requirements of a motion to reopen or reconsider under the regulation at 8 C.F.R. § 103.5(a)(2) and therefore need not be treated as such. *See* 8 C.F.R. § 103.3(a)(2)(v)(B)(2). The appeal is not accompanied by any additional evidence or argument to overcome the deficiencies in the applicant's citizenship claim noted in the director's decision.