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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**

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Date: **JUL 03 2012** Office: BUFFALO, NEW YORK File: [REDACTED]

IN RE: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under former Section 309(a) of the
Immigration and Nationality Act, 8 U.S.C. § 1409(a)

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.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Buffalo, New York Field Office Director (the director) denied the Application for Certificate of Citizenship (Form N-600). 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 appeal on a Notice of Appeal or Motion (Form I-290B) with the appropriate filing fee, which may be accompanied by a brief and/or additional evidence. 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 of service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.8(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 petitioner was personally served with the director's decision on May 14, 2012. It is noted that the director properly gave notice to the applicant that he had 30 days to file the appeal. U.S. Citizenship and Immigration Services (USCIS) received the complete appeal, on June 15, 2012, or 32 days after the decision was issued to the applicant by personal service. Accordingly, the appeal was untimely filed.

Neither the Immigration and Nationality Act nor the pertinent regulations grant the AAO or the director authority to extend the 30-day time limit for filing an appeal. The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the Buffalo, New York Field Office Director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director determined that the late appeal did not meet the requirements of a motion and forwarded the matter to the AAO.

As the appeal was untimely filed, it must be rejected.

ORDER: The appeal is rejected.