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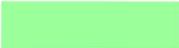
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



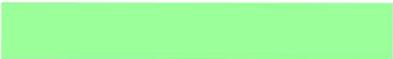
U.S. Citizenship
and Immigration
Services

Date: **AUG 28 2013**

Office: YAKIMA, WA

FILE: 

IN RE:

Applicant: 

APPLICATION: Application for Certificate of Citizenship Pursuant to Section 320 of the Immigration and Nationality Act, 8 U.S.C. § 1431

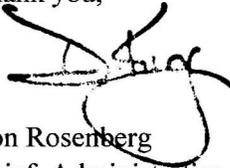
ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,



Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director (director), Yakima, Washington, denied the application and the case is now before the Administrative Appeals Office (AAO) on appeal.¹ 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. § 103.8(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). Neither the Act nor the pertinent regulations grant the AAO authority to extend this time limit.

The record indicates that the director's decision was issued on October 14, 2011. It is noted that the director properly gave notice to the applicant that she had 33 days to file the appeal. The appeal in this case was not filed until July 13, 2012, 273 days after the issuance of the director's decision. Accordingly, the appeal was untimely filed.

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 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.

¹ Although the applicant indicated in the Form I-290B, Notice of Appeal or Motion, that she was filing a motion to reopen, her statement on Part 3 of the Form I-290B reveals that she intended to appeal the director's decision. The time for filing a Motion to Reopen is also 30 days, and an untimely filed motion, like an untimely appeal, must also be rejected. *See* 8 C.F.R. § 103.5(a)(1)(i).