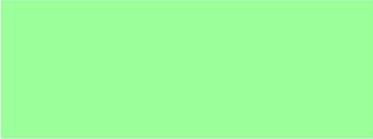


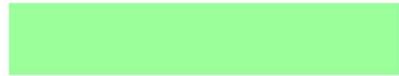


**U.S. Citizenship  
and Immigration  
Services**

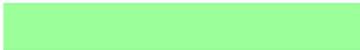
(b)(6)



Date: JUN 21 2013 Office: HARLINGEN, TX



IN RE: Respondent:



APPLICATION: Application for Certificate of Citizenship pursuant to former Section 301(a)(7) of the Immigration and Nationality Act, 8 U.S.C. § 1401(a)(7)(1973).

ON BEHALF OF RESPONDENT:



**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 "Ron Rosenberg".

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Application for Certificate of Citizenship was denied by the Field Office Director, Harlingen, Texas, and the decision 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. § 103.8(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 field office director's decision was issued on August 8, 2012. It is noted that the field office director properly gave notice to the applicant that he had 33 days to file the appeal. It is further noted that the field office director instructed the applicant to file any appeal with the USCIS Harlingen Field Office. The appeal in this case was received by the Vermont Service Center on August 27, 2012. The appeal was not received by the USCIS Harlingen Field Office until September 19, 2013, 42 days after the issuance of the field office 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.