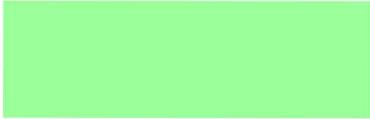


(b)(6)

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

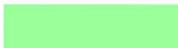


U.S. Citizenship  
and Immigration  
Services

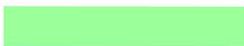


Date: **OCT 15 2013**

Office: LAS VEGAS, NV

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Field Office Director (director), Las Vegas, Nevada, denied the application and the case 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 director's decision was issued on June 9, 2011. It is noted that the director properly gave notice to the applicant that she had 33 days to file the appeal with a filing fee of \$630. The appeal in this case was not filed until July 28, 2011, 49 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.<sup>1</sup> 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.

---

<sup>1</sup> The applicant's case was denied by the director for failure to establish a biological relationship between the applicant and her father. On appeal, the applicant states that the results of a DNA test would be submitted to the AAO, but, to date, the AAO has not received DNA or any other evidence relating to this matter.