



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF G-D-M-

DATE: DEC. 22, 2015

APPEAL OF TAMPA FIELD OFFICE DECISION

APPLICATION: FORM N-600, APPLICATION FOR CERTIFICATE OF CITIZENSHIP

The Applicant, a native and citizen of Canada, seeks a Certificate of Citizenship. *See* Immigration and Nationality Act (the Act) § 301, 8 U.S.C. § 1401 (1961) (amended by Pub. L. No. 95-432, 92 Stat. 1046 (1978)). The Director, Tampa Field Office, denied the application. The matter is now before us on appeal. The appeal will be rejected.

The regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that an affected party must file a complete appeal within 30 days after service of an unfavorable decision. If the decision is mailed, the 30-day period for submitting an appeal begins three days after it is mailed. 8 C.F.R. § 103.8(b). The date of filing is the date of actual receipt of the appeal, not the date of mailing. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record reflects that the Director sent the decision on June 27, 2013, to the Applicant at the Applicant's address of record. The Director stated that the Applicant had 33 days to file an appeal. The appeal was not received until May 7, 2015, 679 days after the decision was issued. Therefore, the appeal was untimely filed and must be rejected.

Neither the Act nor the pertinent regulations grant us authority to extend the time limit for filing an appeal. However, the regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) provides that, if an untimely appeal meets the requirements of a motion to reopen as described in 8 C.F.R. § 103.5(a)(2) or a motion to reconsider as described in 8 C.F.R. § 103.5(a)(3), the appeal must be treated as a motion, and a decision must be made on the merits of the case.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must: (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or USCIS policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the Director, Tampa Field Office. *See* 8 C.F.R. § 103.5(a)(1)(ii). The matter will therefore be returned to the Director. If the Director determines that the late appeal meets the

Matter of G-D-M-

requirements of a motion, the motion shall be granted and a new decision will be issued. As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.

Cite as *Matter of G-D-M-*, ID# 15366 (AAO Dec. 22, 2015)