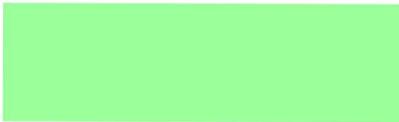




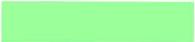
**U.S. Citizenship
and Immigration
Services**

(b)(6)

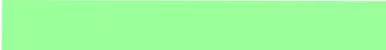


Date: **SEP 09 2013**

Office: WASHINGTON, DC

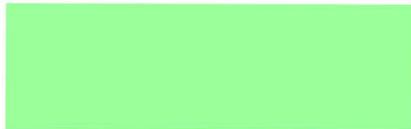
FILE: 

IN RE:

Respondent: 

APPLICATION: Cancellation of Certificate Pursuant to Section 342 of the Immigration and Nationality Act, 8 U.S.C. § 1453

ON BEHALF OF APPLICANT:



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 District Director (director), Washington, D.C., cancelled the applicant's certificate of naturalization and 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 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 February 21, 2013. 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 received by the appropriate office until March 28, 2013, 35 days after the issuance of the director's decision.¹ 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 The record contains a U.S. Postal Service receipt indicating that the applicant's submission was received on March 21, 2013. The receipt, however, is for an item delivered to zip code 20528. The zip code for the appropriate filing address for the appeal, as indicated in the director's decision, was 20041.