



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



L2

FILE:



Office: NATIONAL BENEFITS CENTER

Date: APR 27 2004

IN RE:

Applicant:



APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Missouri Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director concluded the applicant had not established that he had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, the applicant asserts that he should be considered a class member because he attempted to file an application for temporary residence under section 245A of the Immigration and Nationality Act (INA) during the application period, but was told that he was not eligible by an employee of a Qualified Designated Entity (QDE). The applicant also claims that he timely filed a written claim to class membership in the "CSS v. Meese" legalization lawsuit with the Immigration and Naturalization Service (now Citizenship and Immigration Services, or CIS). The applicant includes photocopies of documents that had previously been submitted with the LIFE Act application and in response to the notice of intent to deny, as well as other documentation in support of the appeal.

An affected party filing from within the United States has 30 days from the date of an adverse decision to file an appeal. An appeal received after the 30 day period has tolled will not be accepted. The 30 day period for submitting an appeal begins 3 days after the Notice of Decision is mailed. 8 C.F.R. § 245a.20(b) (1)

If an applicant's last known address of record was outside the United States, and the Notice of Decision was mailed to that foreign address, the appeal must be received by the Service within 60 calendar days after service of the Notice of Decision. An appeal received after the 60 day period has tolled will not be accepted. The 60-day period for submitting an appeal begins 3 days after the Notice of Decision is mailed. 8 C.F.R. § 245a.20(b) (2).

The record reflects that the director sent his decision of January 22, 2003, to the applicant at his address of record. CIS received the appeal 37 days later on February 28, 2003. Therefore, the appeal was untimely filed.

The burden of proving eligibility for the benefit sought remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not sustained that burden.

ORDER: The appeal is rejected as untimely filed.