



U.S. Citizenship
and Immigration
Services

L2



FILE: [REDACTED]

Office: NATIONAL BENEFITS CENTER

Date:

IN RE: Applicant: [REDACTED]

MAY 18 2004

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

Administrative Appeals Office
National Benefits Center
Washington, DC 20536

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 the matter 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.

PUBLIC COPY

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 he was not advised he needed to complete "such questionnaire." However, the applicant fails to specify exactly *what* questionnaire he is referring to. At the initiation of the LIFE Act, offices of the Immigration and Naturalization Service or INS (now, Citizenship and Immigration Services) throughout the country, along with numerous private voluntary organizations, undertook extensive efforts to disseminate information and provide widespread publicity informing aliens as to the specific procedures and requirements of the program, including the necessity of filing a written claim for class membership prior to the deadline of October 1, 2000. In the present case, the applicant is applying for a benefit, specifically, permanent resident status under section 1104 of the LIFE Act. As such, the burden of, and responsibility for, establishing eligibility for the benefit sought remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

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 May 12, 2003 to the applicant at his addresses of record. Citizenship and Immigration Services (CIS) did not receive the appeal until 38 days later on June 19, 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.