



U.S. Citizenship  
and Immigration  
Services

27

[REDACTED]

FILE: [REDACTED] Office: Houston

Date: SEP 20 2004

IN RE: Applicant: [REDACTED]

PETITION: 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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. 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.

Robert P. Wiemann, Director  
Administrative Appeals Office

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prevent clearly unwarranted  
invasion of personal privacy

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**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Acting District Director, Houston, Texas, 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, counsel for the applicant asserts that the evidence provided by the applicant clearly meets his burden of proof of having continuously resided in the U.S. since prior to January 1, 1982, and that the denial of his application is therefore unfair.

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 district director sent his Notice of Superceding Denial of April 30, 2003 to the applicant and to counsel at their respective addresses of record. This was followed by a May 21, 2003 communication from the district director to counsel and the applicant, indicating that the previous denial of March 18, 2003 was being superceded by the subsequent April 30, 2003 denial, and informing them that they would be provided with an additional 30 days in which to submit an amended I-290B Notice of Appeal.

In a subsequent brief dated June 26, 2003, counsel asserted that the district office's communication of May 21, 2003 had not been received by her office until June 25, 2003. However, counsel has submitted no independent, corroborative evidence into the record to support this assertion. Citizenship and Immigration Services (CIS) did not received the appeal until 58 days later on June 27, 2003. The appeal was, therefore, 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.