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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536



File:

Office: Missouri Service Center

Date: AUG - 5 2003

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

PUBLIC COPY

INSTRUCTIONS:

Attached is the decision rendered on your appeal. The file has been returned to the Service Center that processed your case. If your appeal was sustained, or if your case was remanded for further action, the Service Center will contact you. 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 dismissed.

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 indicates that he had filed an application for temporary resident status as a special agricultural worker under section 210 of the Immigration and Nationality Act (INA). The applicant reiterates his claim to have performed qualifying agricultural services during the period from May 1, 1985 to May 1, 1986. The applicant submits additional documentation in support of his appeal.

An applicant for permanent resident status under the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in any of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993).

It is noted that the director stated in the decision that the applicant was statutorily ineligible to adjust status under provisions of the LIFE Act because he had originally applied as a special agricultural worker under section 210 of the INA. According to 8 C.F.R. § 245a.10, an alien is eligible for consideration under the LIFE Act if he or she filed a written claim for class membership in one of the legalization class-action lawsuits cited in the previous paragraph, regardless of whether the alien had previously applied for temporary resident status under either sections 245A or 210 of the INA.

Bureau regulations provide an illustrative list of documents that an applicant may submit to establish that he or she filed a written claim for membership before October 1, 2000. 8 C.F.R. § 245a.14. The regulations also permit the submission of "[a]ny other relevant document(s)." 8 C.F.R. § 245a.14(g).

The applicant failed to submit any documentation addressing this requirement at the time the application was filed or in rebuttal to the director's notice of intent to deny. On appeal, the applicant submits a photocopy of a completed Legalization Front-Desk

Questionnaire. However, the questionnaire is dated December 23, 2000, more than two months after the October 1, 2000 deadline for applying for class membership in any of the requisite legalization class-action lawsuits. Moreover, the photocopied questionnaire includes no date-stamp to indicate that it was ever received by the Bureau. Nor does the applicant explain why, if he truly had the questionnaire in December 2000, a copy of that questionnaire was not furnished along with the application or at least on rebuttal.

The record shows that the applicant timely filed an application for temporary resident status as a special agricultural worker under section 210 of the INA on October 28, 1988, and that the application was ultimately denied on November 14, 1990. The record reflects that the applicant's appeal to this denial of his application was subsequently dismissed by the AAO on March 11, 1992. Section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status as a special agricultural worker under section 210 of the INA. Given his failure to document that he *timely* filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

It is noted that an applicant for permanent resident status under section 1104 of the LIFE Act must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b). On the Form G-325A, Record of Biographic Information, that was submitted with the LIFE Act application, the applicant specifically acknowledged that he began residing in the United States in July 1983, after having previously resided in Bangladesh. Accordingly, the applicant is ineligible for permanent residence on this basis as well.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.