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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 6 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

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 states that he and his family came to the United States on January 23, 1983. The applicant indicates that he has been a law abiding and productive individual since arriving in this country, and that it would constitute a hardship if he were forced to leave.

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 Immigration and Nationality Act (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 record contains a Legalization Front-Desking Questionnaire that was submitted to the Bureau by the applicant on December 4, 2000. The questionnaire was evaluated by the Bureau as part of a separate procedure to determine whether the applicant was eligible to file an application Form I-687 which would be evaluated as if it had

been submitted during the original May 5, 1987 to May 4, 1988 filing period. The questionnaire does not establish, however, that the applicant had completed and filed a written claim for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000, as required. An examination of the record fails to disclose that any documentation concerning a request for class membership was filed by the applicant with the Bureau by October 1, 2000, and that he subsequently submitted his legalization questionnaire on December 4, 2000.

The applicant timely filed an application for temporary resident status as a special agricultural worker under section 210 of the INA on September 28, 1987, and the application was ultimately denied on January 2, 1992. The applicant's appeal to this denial of his application was subsequently dismissed by the AAO on July 27, 1994. It must be noted that the applicant submitted a copy of this dismissal in the current proceedings relating to his LIFE Act application, and that the Bureau found the applicant's special agricultural worker claim to be fraudulent. 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, and on appeal, the applicant specifically acknowledges that he began residing in the United States in January 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.