

U.S. Department of Homeland Security
Citizenship and Immigration Services

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

File

[REDACTED]

Office: National Benefits Center

Date:

OCT 21 2003

IN RE: Applicant:

[REDACTED]

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:

[REDACTED]

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
for

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, counsel acknowledges that the applicant timely filed an application for temporary resident status as a special agricultural worker under section 210 of the Immigration and Nationality Act (INA). Counsel asserts that the applicant should be considered a class member because he also attempted to file an application for temporary residence under section 245A of the INA in December 1987, but was turned away by a Service (now Citizenship and Immigration Service, or CIS) employee. Counsel submits a photocopy of a LIFE legalization questionnaire in support of the appeal.

An applicant for permanent resident status under section 1104 of 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 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 (LULAC) v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc. (CSS)*, 509 U.S. 43 (1993), or *Zambrano (Zambrano) v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993).

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

Both on rebuttal to the notice of intent to deny and on appeal, counsel asserts that the applicant is eligible for permanent residence under the provisions of the LIFE Act because he had attempted to file an application under section 245A of the INA in December 1987. While the applicant may very well have been front desked (informed that he was not eligible for legalization) when he attempted to file a legalization application in December 1987, this action alone does not equate to having filed a written claim for class membership in any of the requisite legalization class-action lawsuits. Counsel contends that the United States Supreme Court supports this position as indicated in the decision issued in the *CSS* case. However, counsel has failed to cite the specific passage or language within the *CSS* decision that would support this

contention. Furthermore, a review of the decisions issued in the CSS case fails to reveal any ruling that could support this contention.

Counsel indicates that the applicant had filed a written claim for class membership by submitting a LIFE legalization questionnaire. The record contains a Legalization Front-Desking Questionnaire that is dated August 3, 2000, which counsel provided both on rebuttal and on appeal. However, the questionnaire does not contain proof such as a date receipt stamp or any other indication that the questionnaire was submitted to CIS prior to the receipt of the response to the notice of intent to deny on October 17, 2002. Moreover, neither counsel nor the applicant offers any explanation as to why, if this letter were truly in his possession the entire time, he did not submit it with his LIFE Act application, as applicants were advised to provide evidence with such applications. An examination of the record fails to disclose that any documentation concerning a request for class membership was filed by the applicant by October 1, 2000.

The applicant timely filed an application for temporary resident status as a special agricultural worker under section 210 of the INA on April 28, 1988, and this application was denied on October 11, 1996. The applicant's appeal to the denial of his application was subsequently dismissed by the AAO on August 4, 1999. 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.

The record reflects that all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership in a timely manner. 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.

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