



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted] Office: National Benefits Center Date: **APR 26 2004**

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).

PUBLIC COPY

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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.

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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, National Benefits Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the record did not establish the applicant had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, the applicant asserts that he filed a timely Legalization Questionnaire with the Immigration and Naturalization Service (INS) establishing his claim for class membership in the *LULAC* lawsuit, *infra*.

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 one 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) ("CSS"), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("LULAC"), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993) ("Zambrano"). See section 1104(b) of the LIFE Act and 8 C.F.R. § 245a.10.

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.

An applicant for permanent resident status under section 1104 of the LIFE Act must also establish that he or she entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status through May 4, 1988. See section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

The record shows that the applicant filed an application on April 27, 1988 for temporary resident status as a special agricultural worker (SAW) under section 210 of the Immigration and Nationality Act (INA). The SAW application was denied by the Southern Service Center, in Dallas, Texas, on June 26, 1992. An application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits, as required under section 1104(b) of the LIFE Act. Furthermore, the LIFE Act contains no provision allowing for the reopening and reconsideration of an application for temporary resident status as a special agricultural worker under section 210 of the INA.

In his LIFE application, filed on October 19, 2001, the applicant identified himself as a "LULAC applicant." The application was accompanied by the following pertinent materials:

- 1) A photocopied Notice of Review Decision from the Vermont Service Center, dated July 27, 2000, informing the applicant that the questionnaire he had submitted, dated November 27, 1999, seeking adjudication of his application for legalization benefits based on the improper rejection of his application during the original filing period of May 5, 1987 to May 4, 1988, "failed to provide sufficient details or credible information to support your claim."
- 2) An original Legalization Front-Desk Questionnaire from the applicant, dated June 7, 2001 and stamped as received by the Vermont Service Center on June 18, 2001, in which the applicant asserted that he filed an application for legalization under the Immigration Reform and Control Act of 1986 ("IRCA") at the INS office in Houston, Texas, in 1987.

- 3) A Notice of Action (Form I-797) from the Vermont Service Center, dated July 6, 2001, informing the applicant that the INS was "precluded from accepting your questionnaire" because the filing period for the questionnaires had ended on February 19, 2001.
- 4) Biographic Information (Form G-325A) from the applicant stating that he resided in Mexico from 1958, the year of his birth, until September 1996.

In his decision denying the instant LIFE application, the director first focused on the Notice of Review Decision issued by the Vermont Service Center on July 27, 2000. The director referred to the language in that decision quoting the applicant's response to question 2 in his 1999 questionnaire about the alleged rejection (*i.e.*, "front-desking") by an INS employee of his initial attempt to file a legalization application – "[I] *did file* in Houston at the INS office in 1988." (Emphasis added.) Without specifically saying so, the director appeared to agree with the Vermont Service Center that the applicant's statement that he "did file" an application in 1988 means he was not "front-desked" and therefore does not meet one of the requirements for eligibility as a late legalization applicant under the LIFE Act. As the director correctly pointed out, the LIFE Act program is specific to those "eligible aliens" who attempted to file for legalization benefits under [section] 245A [of the INA] and have now filed a claim to class membership in one of the three legalization lawsuits." But there is no record at Citizenship and Immigration Services (successor to the INS) that the applicant ever filed an application under section 245A of the INA. The applicant did file an application under section 210 of the INA, as previously discussed, at the INS office in Houston, Texas, on April 27, 1988. That application is almost certainly the one referenced by the applicant in his 1999 questionnaire. The record is inconclusive as to whether the applicant *attempted* to file a section 245A application during the original filing period in 1987-88, but was "front-desked." While the Legalization Front-Desking Questionnaire the applicant submitted to the Vermont Service Center in June 2001 referred to a filing, or attempted filing, of a legalization application under IRCA at the Houston INS office in 1987, it is not clear whether the applicant was referring to the SAW application he actually filed under section 210 of the INA or a separate attempted application under section 245A of the INA.

In any event, the director did not question the authenticity of the applicant's earlier 1999 questionnaire, referenced in the Vermont Service Center's decision of July 27, 2000. The director's implicit finding of authenticity will not be further examined in this appeal. Accepting the applicant's 1999 questionnaire as authentic, the AAO does not agree with the director's finding that it "fails to establish that you have filed a timely written claim for class membership." As discussed above, the record is unclear as to whether the applicant alleged that he was "front-desked" in attempting to file an application under section 245A of the INA. The record does indicate, though, that the applicant's initial questionnaire was signed and dated November 27, 1999. It also indicates that the questionnaire was filed with the INS prior to July 27, 2000, the date of the Notice of Review Decision. Thus, the questionnaire was filed before October 1, 2000 – the statutory deadline to claim class membership in one of the legalization lawsuits.

The applicant filed a second questionnaire with the Vermont Service Center on June 18, 2001. Unlike the first, it did not meet the filing deadline. Though the Notice of Action (Form I-797) issued by the Vermont Service Center on July 6, 2001 referred to a filing deadline in February 2001 (which the applicant's questionnaire did not meet in any event because it was only submitted to the INS in June 2001), the operable filing deadline for class membership claims under section 1104(b) of the LIFE Act was even earlier – October 1, 2000. Thus, the Legalization Front-Desking Questionnaire filed by the applicant in June 2001 does not constitute a timely claim for class membership in *LULAC*.

Though the applicant's earlier 1999 questionnaire may be considered a timely claim for class membership, the instant application still fails because the applicant has not demonstrated that he meets the residency requirements set forth in section 1104(c)(2)(B)(i) of the LIFE Act to qualify for late legalization. In the Form G-325A (Biographic Information) he submitted with his LIFE application, the applicant stated that he resided

in Mexico from the time of his birth in April 1958 until September 1996, at which time he came to the United States. That means the applicant did not reside in the United States for any of the requisite time period of January 1, 1982 to May 4, 1988. This information is inconsistent with the information the applicant provided on his SAW application (Form I-700) in 1988. On that form the applicant asserted that he entered the United States in April 1984 and took up residence in Hull, Texas. All of the INS correspondence in the file relating to the SAW application (during the years 1988 to 1991) identified the applicant's address as Hull, Texas. Thus, it appears that the applicant did reside in the United States at least some of the time before September 1996. But there is no indication that the applicant was ever in the United States before April 1984. Indeed, in answer to question 23 on his Form I-700 – "List all periods of residence in the United States since May 1, 1983" – the applicant replied with a Hull, Texas address "from April 1984 to present [April 1988]." Thus, the applicant acknowledged on his SAW application that he did not reside in the United States during the period of May 1, 1983 to April 1984. More broadly, the applicant does not assert anywhere in the record, nor has he submitted any documentary evidence, that he entered the United States before January 1, 1982 and that he resided in this country continuously (and unlawfully) from then until May 4, 1988, as required under section 1104(c)(2)(B)(i) of the LIFE Act. To the contrary, on the Form G-325A submitted in the current proceeding the applicant gave a specific address in Mexico as his address for the years 1982 through 1996.

Therefore, the record compiled in two different legalization applications – earlier under section 210 of the INA and currently under section 1104 of the LIFE Act – indicates that the applicant fails to meet the statutory requirement, set in section 1104(c)(2)(B)(i) of the LIFE Act, of continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988.

Accordingly, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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