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Washington, DC 20536



U.S. Citizenship
and Immigration
Services

FILE:

Office: National Benefits Center

Date: APR 28 2004

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:

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.

Robert P. Wieman, 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. 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 that the applicant had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000. In addition, the director found that the applicant was inadmissible to the United States under section 212(a) of the Immigration and Nationality Act (INA) because of a criminal violation and for being in deportation proceedings.

In his appeal, filed on April 17, 2003, the applicant asserts that "I am a 245A category," without further explanation. Although the applicant states on his appeal form that he was submitting a separate brief or evidence, no such materials have been filed up to the date of this decision.

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.

The applicant does not even assert, much less submit any supporting documentation, that he filed a written claim for class membership in one of the three legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*, prior to October 1, 2000, as required to be eligible for legalization under section 1104(b) of the LIFE Act. Nor does Citizenship and Immigration Services (CIS), successor to the Immigration and Naturalization Service (INS), have any record that the applicant applied for class membership.

In his appeal the applicant states simply that he is "a 245A category." That is the section of the Immigration and Nationality Act (INA) that was added by the Immigration Reform and Control Act of 1986 (IRCA), allowing certain individuals residing unlawfully in the United States to apply for legalization. The first step in that process was to apply for temporary resident status (Form I-687) during a one-year filing period from May 5, 1987 to May 4, 1988. There is no record that the applicant filed a Form I-687 under section 245A of the INA (IRCA). Even if he had, that action would have been the first step in the process of seeking permanent resident status under the statutory provisions of IRCA. It would not have constituted a claim filed with the Attorney General (*i.e.*, with the former INS) for class membership in one of the subsequent legalization class action lawsuits, *CSS*, *LULAC*, or *Zambrano*.

Thus, the record fails to establish that the applicant filed a written claim for class membership in one of the legalization lawsuits before October 1, 2000, as required under section 1104(b) of the LIFE Act.

Furthermore, under section 1104(c)(2)(B)(i) of the LIFE Act an applicant must 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. In the Form G-325A (Biographic Information) that accompanied his LIFE application in May 2002, the applicant stated that he resided in Mexico from 1972, the year of his birth, until January 1989. In an earlier Request for Asylum in the United States (Form I-589) he filed in February 1994, the applicant stated that he arrived in the United States on September 10, 1988. Whether it was September

1988 or January 1989, it is clear that the applicant entered the United States long after January 1, 1982 and did not reside in this country for any of the requisite time period up to May 4, 1988.

Thus, the applicant also failed to meet the U.S. residence requirement set forth in section 1104(c)(2)(B)(i) of the LIFE Act.

For the reasons discussed above, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

The applicant did not address on appeal the director's finding that he was inadmissible under section 212(a) of the INA because of criminal violations. Those charges of inadmissibility, however, were unsubstantiated in the record. There is no evidence that the applicant ever had a final order of removal or that he was convicted of any crime. Therefore, the director erred in this part of his decision.

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