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U.S. Department of Homeland Security
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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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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. It is now on appeal before the Administrative Appeals Office. The appeal will be dismissed.

The director concluded that the applicant had not established 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 asserts that "the Missouri Service has erred in my case" and that he "qualif[ies] for relief under the LIFE Act."

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 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 filed an application for temporary resident status as a special agricultural worker (SAW) under section 210 of the Immigration and Nationality Act (INA) on July 27, 1988. After its original denial by the District Director in San Diego, California, and a long procedural history involving several remands by the Office of Administrative Appeals and additional denials by the Western Service Center, the applicant's appeal was ultimately dismissed by the Office of Administrative Appeals on September 9, 1998. 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.

The record indicates that the applicant filed a Legalization Questionnaire with the Vermont Service Center on January 30, 2001. The information provided by the applicant in the questionnaire pertains exclusively to his prior SAW application. As discussed above, a prior SAW application provides no basis for legalization under the current LIFE Act. Moreover, the Legalization Questionnaire was filed with the INS four months after the statutory deadline of October 1, 2000 to file a claim for class membership in one of the requisite legalization lawsuits. Therefore, under section 1104(b) of the LIFE Act it could not constitute a timely claim for class membership in any event.

In response to the director's Notice of Intent to Deny his application, the applicant submitted photocopies of the following pertinent materials: (1) a Form I-687, Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act), dated June 1, 1993, and (2) a Form for Determination of Class Membership in *CSS v. Thornburgh*, dated June 2, 1993. These documents are listed in 8 C.F.R. § 245a.14 as examples of evidence which may be furnished in an effort to establish that an alien applied for class membership prior to October 1, 2000. However, there are serious omissions on both documents which fundamentally undermine their credibility. For one thing, neither document bears the applicant's signature. The Form I-687 was prepared and dated by Flora A. Pinal. The boxes for the signature and date of the applicant, however, are conspicuously blank. As for the CSS class membership determination form, it is unclear who prepared it. A number of questions, comprising roughly half of the form, are unanswered and

the space for the applicant's signature is once again blank. In view of these glaring omissions, neither document can be viewed as authentic evidence that the applicant filed a claim for class membership in 1993.

Moreover, Citizenship and Immigration Services (CIS), successor to the INS, has no record of receiving any Form I-687 or Form for Determination of Class Membership in *CSS v. Thornburgh* from the applicant in 1993, or any time thereafter up to the statutory deadline of October 1, 2000. The applicant has not furnished any evidence, such as postal receipts or acknowledgement letters, that he actually submitted the documents to the INS in 1993 or some other time before October 1, 2000. In fact, neither document was received by INS until December 12, 2002, as part of the applicant's response to the director's Notice of Intent to Deny. That was more than two years after the statutory deadline to file a claim for class membership in one of the legalization lawsuits.

Thus, the record fails to establish that the applicant filed a claim for class membership in *CSS*, or either of the other legalization lawsuits, *LULAC* or *Zambrano*, before October 1, 2000, as required for him to be eligible for legalization under section 1104 of the LIFE Act.

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.