



U.S. Citizenship
and Immigration
Services

L-2



FILE:



Office: Los Angeles, California

Date:

AUG 04 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 Los Angeles District Office. 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 L. Wieman".

Robert L. Wieman, Director
Administrative Appeals Office

PUBLIC COPY

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Los Angeles, California. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

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 Missouri Service Center determined that the applicant filed a timely claim for class membership in CSS.

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

The district director concluded that the applicant failed to prove by a preponderance of the evidence that he resided in the United States unlawfully for the requisite time period of before January 1, 1982 through May 4, 1988. Though the applicant provided ample evidence of his U.S. residence during the later years 1985-1988, the record contained no documentation of his alleged U.S. residence during the earlier years 1981-1984, aside from scanty affidavit evidence providing few details of the affiant's knowledge about the applicant in the subject years.

In his appeal, filed on February 4, 2004, the applicant stated that he was "trying very hard to find the evidence to support my case." Up to the date of this decision, however, no new materials have been submitted of the applicant's alleged entry into the United States before January 1, 1982 and continuous unlawful residence in this country prior to 1985.

8 C.F.R. § 245a.12(e) provides that "[a]n alien applying for adjustment of status under [section 1104 of the LIFE Act] has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods." The preponderance of evidence standard is explained as follows in *Matter of E-M-*, 20 I&N Dec. 77, 80 (Comm. 1989): "when something is to be established by a preponderance of the evidence it is sufficient that the proof only establish that it is probably true." Preponderance of the evidence has also been defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary 1064 (5th ed. 1979). Based on the evidence of record, the AAO determines that the applicant has failed to meet this burden of proof. He has not established, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided in the United States in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

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.