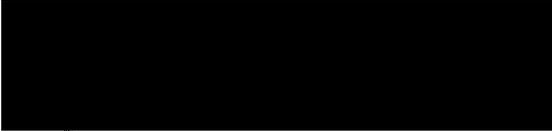




U.S. Citizenship
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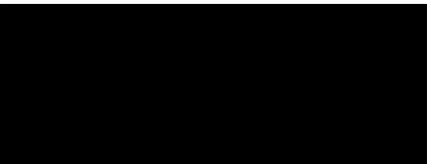


FILE: [REDACTED] Office: NATIONAL BENEFITS CENTER Date:

IN RE: Applicant: [REDACTED]

PETITION: 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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. 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. Wiemann, Director
Administrative Appeals Office

Administrative Appeals Office
Department of Homeland Security
Protection of your privacy
invasion of personal privacy

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Acting 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 for the applicant asserts that the applicant filed a timely application for legalization under Section 245A of the Immigration and Nationality Act (INA) and that this application was subsequently approved by the Immigration and Naturalization Service or the Service (now, Citizenship and Immigration Services or CIS). Counsel requests that, in view of the Service's approval of the applicant's application for temporary residence, his application for adjustment to permanent resident status under the LIFE Act should also be approved. In addition, counsel asserts that the applicant has filed a written claim for class membership in CSS, LULAC and Zambrano.

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 any 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 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 failed to submit any documentation addressing this requirement when the application was filed, in rebuttal to the initial notice of intent to deny, or on appeal. The record includes documentation relating to the prior adjudication of a separate application the applicant had submitted for temporary resident status under section 245A of the Immigration and Nationality Act (INA). A review of the record shows that the applicant timely filed his I-687 application for temporary resident status under section 245A of the INA, and that the application was granted. The record also indicates that the applicant's temporary resident status was subsequently terminated due to his failure to file an application for adjustment of status from temporary to permanent residence within the *43-month application period*, as required.

On appeal, counsel asserts that the applicant's I-687 legalization application had been approved, and that he never received any notice from the Service that his temporary resident status had subsequently been terminated. The record indicates that on October 1, 1991, the applicant was informed by the Service that his application for temporary residence had been approved. The notice, which was sent to the applicant's most current address of record, was returned by the U.S. Postal Service, which stamped the envelope "Returned to Sender; Not Deliverable As Addressed." There is no evidence in the record, however, that the applicant

attempted to notify the Service of any change of address prior to the issuance of the notice. As such, the applicant's failure to receive the approval notice must be deemed to be of his own making.

The status of an alien lawfully admitted for temporary residence under section 245A(a)(1) of the Act may be terminated at any time if the alien fails to file for adjustment of status from temporary to permanent resident on Form I-698 within forty-three (43) months of the date he was granted status as a temporary resident. 8 C.F.R. § 245a.2(u)(1)(iv). It should be noted that the Service, in conjunction with private voluntary organizations, widely publicized the requirement of applying for adjustment to permanent residence within the requisite period. Furthermore, the original eligibility period of 31 months was extended to 43 months to better enable applicants to file timely applications. The burden to file the adjustment application in a timely manner, however, remains with the applicant. *See* 8 C.F.R. § 245a.3(d).

In any case, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed application for temporary resident status under section 245A of the INA. Moreover, the applicant's having filed a timely I-687 application during the May 5, 1987 to May 4, 1988 application period under legalization does *not* equate to having filed an timely application for class membership in any of the aforementioned legalization class-action lawsuits.

Given the applicant's failure to provide documentation establishing his having filed a timely written claim for class membership in CSS, LULAC or Zambrano, he 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.