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U.S. Citizenship
and Immigration
Services



12

AUG 26 2004

FILE:



Office: NATIONAL BENEFITS CENTER

Date:

IN RE:

Applicant:



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:

Self-represented

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

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, National Benefits 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, the applicant indicates that in 1988, he had unsuccessfully attempted to apply for legalization under the Immigration Reform and Control Act of 1986 (IRCA), and that subsequently, in 1999, he filed for class membership under LULAC.

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.

With his application, the applicant submitted a photocopied a Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, which was purportedly signed by him on September 17, 1988. On appeal, the applicant asserted that in September 1988, he had unsuccessfully attempted to file his I-687 application for legalization under the Immigration Reform and Control Act of 1986 (IRCA), but was informed by an unspecified officer of the Immigration and Naturalization Service or the Service (now, Citizenship and Immigration Services, or CIS) that he was ineligible due to his having engaged in unauthorized travel in 1986. However, the applicant's assertion of what may or may not have transpired on this occasion can be neither confirmed nor denied based on the record of proceedings.

The applicant's photocopy of a signed I-687 application might possibly serve as evidence of being "front-desked" or otherwise discouraged or prevented from applying for legalization under section 245A of the Immigration and Nationality Act (INA). Nevertheless, it does *not* constitute an application for class membership under LULAC or any of the aforementioned class-action lawsuits. Moreover, there is no indication that this I-687 application was ever actually filed by the applicant or that it was ever received by Citizenship and Immigration Services (CIS).

In his separate statement on appeal, the applicant asserted that in July 1999, after having returned to the U.S. from his native Colombia, he had filed for class membership under LULAC. In response to the notice of

intent to deny, the applicant provided a photocopied LULAC Class Member Declaration signed July 2, 1999, along with a photocopied Legalization Questionnaire which is signed October 18, 2000. Such documents may be furnished in an effort to establish that an alien had previously applied for class membership. However, the Legalization Questionnaire cannot be deemed to have been timely filed as it was signed *subsequent* to the October 1, 2000 deadline for filing a claim for class membership. Furthermore, the applicant does not explain why, if these two documents were truly in his possession the entire time, he did not submit them initially along with his LIFE application but only after having received the director's notice of intent to deny. Applicants for LIFE eligibility were advised to provide any and all qualifying evidence *with* their applications. The applicant's failure to submit these documents initially serves to create suspicion regarding their authenticity. Moreover, there is no indication in CIS administrative or computer records of the applicant ever having filed either of these two documents.

Given his failure to provide credible documentation establishing his having filed a timely written claim for class membership, the applicant 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.