



U.S. Citizenship
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Services

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FEB 02 2004

FILE:

Office: National Benefits Center

Date:

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:

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. 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. The matter is now on appeal before the Administrative Appeals Office (AAO). 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, counsel asserts that Citizenship and Immigration Services (CIS) was obligated by regulation to research its records for any past filings by the applicant and that the applicant was entitled under the due process clause of the Fifth Amendment of the U.S. Constitution to review CIS records.

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 assert in his LIFE application, or anywhere else in the record, that he filed a written claim for class membership in any of the three legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*. Nor has the applicant submitted any documentation indicating that he may have filed such a claim for class membership. Contrary to counsel’s suggestion on appeal, CIS did review its records prior to the issuance of the director’s decision to determine whether the applicant had any prior case file. As the director stated in the opinion, “Bureau [CIS] records have failed to reveal anything that would indicate a claim to class membership had ever been filed.” As for the due process issue raised by counsel, there is no indication in the record that the applicant has ever requested access to any specific records at CIS. If he wishes to do so now, he may file a formal request in accordance with procedures set forth in the Freedom of Information Act, 5 U.S.C. § 552.

In addition to the failure to establish that he filed a claim for class membership in one of the requisite legalization lawsuits, the applicant states in a Form I-134, Affidavit of Support, he filed with the government in 2002 that he has resided in the United States since April 1988. Under section 1104(c)(2)(B)(i) of the LIFE Act, however, an alien 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. Thus, the applicant did not reside unlawfully in the United States for the requisite time period to be eligible for legalization under the LIFE Act.

Given his failure to meet the requirements discussed above, 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.