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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. It was reopened and denied again by the Director, National Benefits Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In both decisions, the directors 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 of the initial decision, the applicant, through his attorney, asserts that the center director's denial of his application was erroneous, and that the evidence submitted in support of the application is sufficient to establish eligibility for permanent resident status under the LIFE Act.

The applicant did not respond to the subsequent decision.

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 at the time his application was filed or in rebuttal to the initial notice of intent to deny. The applicant does provide documentation relating to the prior adjudication of a separate application he 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 application for temporary resident status under section 245A of the INA, and this application was subsequently denied. In any case, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status under section 245A of the INA.

Subsequently, in response to the initial notice of intent to deny, the applicant provided a photocopy of a receipt from the Newark District Office of Citizenship and Immigration Services (CIS) of the applicant's pending Application for Employment Form I-765, along with a photocopy of an Employment Authorization Document (EAD) Form I-688B issued to the applicant, as evidence of his having applied for class membership in one of the legalization class-action suits. However, the issuance of the Form I-688B was related to the applicant having filed the I-765 employment application. As noted in the director's decision, the issuance of the EAD by the Newark District Office was the result of the Missouri Service Center having exceeded the 90-day time period for processing of the applicant's I-765 application. In any case, the photocopied EAD is not indicative of the applicant having filed a timely application for class membership in one of the aforementioned legalization class-action lawsuits.

As the applicant has failed to submit documentation establishing his having filed a timely written claim for class membership, he is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.