



U.S. Citizenship
and Immigration
Services

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invasion of personal privacy



FILE: [REDACTED]

Office: NATIONAL BENEFITS CENTER

Date:

IN RE: Applicant: [REDACTED]

FEB 11 2004

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

PUBLIC COPY

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 your case 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. Wiernarn, 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, 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 states that he believes he is eligible for permanent resident status under the LIFE Act because his prior application for temporary residence under section 245A (legalization) of the Immigration and Nationality Act (INA) had been erroneously denied by the Service (now Citizenship and Immigration Services, or CIS). The applicant asserts that an individual need not have applied for class membership in order to demonstrate eligibility for permanent resident status under the LIFE Act. The applicant submits documentation relating to his prior legalization application.

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 neither claimed nor documented that he had applied for class membership in any of the requisite legalization lawsuits in his LIFE Act application. Rather, the applicant provided documentation relating to the prior adjudication of the separate application for temporary resident status under section 245A of the INA. The applicant also provided such documentation in response to the notice of intent to deny, as well as on appeal. The record reflects that the applicant timely filed his application for temporary resident status under section 245A of the INA on May 4, 1988. The legalization application was subsequently denied on January 10, 1990, and the applicant appealed this denial. The applicant's appeal was dismissed by the AAO on May 29, 1992. Section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of the matter, as the original application for temporary resident status under section 245A of the INA had been filed by the applicant in a timely manner. The legalization class-action lawsuits mentioned above relate to aliens who claim they did not file applications in the 1987-1988 period because they were improperly dissuaded by CIS.

In response to the notice of intent to deny, the applicant asserted that he had applied for class membership. The applicant submitted a photocopy of an "Affidavit for Determination of Class Membership in League of United Latin American Citizens v. INS (LULAC)," in support of his claim. This affidavit is signed by the applicant and dated February 5, 2000. However, the applicant provided no explanation as to why he would have sought membership in this legalization class-action lawsuit as it relates to aliens who claim they did not file applications in the 1987-1988 period because they were improperly dissuaded by CIS, when he had previously filed a timely legalization application on May 4, 1988.

While the photocopy of the affidavit is dated February 5, 2000, the record contains no evidence that the affidavit was submitted to CIS prior to the receipt of the applicant's response on October 2, 2002. Furthermore, the copy of the allegedly submitted LULAC declaration indicates that the applicant reentered the United States with a non-immigrant visa. He has provided no evidence of such entry. As the LULAC lawsuit related to those that reentered

with visas, and the applicant has submitted no proof of such, it appears unlikely that he would have applied for membership in the LULAC lawsuit.

In addition, the applicant provided no explanation whatsoever as to why, if he truly had the "Affidavit for Determination of Class Membership in League of United Latin American Citizens v. INS (LULAC)," in his possession since February 5, 2000, he did not subsequently include it with his LIFE Act application. Applicants were instructed to provide qualifying evidence with their applications and the applicant did include other supporting documentation with his LIFE Act application. Moreover, it must be reiterated that there is no record of CIS ever receiving this affidavit allegedly submitted by the applicant prior the receipt of his response to the notice of intent the LIFE Act application. Therefore, this document cannot be considered as evidence that the applicant filed a written claim for class membership in one of the legalization class-action lawsuits prior to October 1, 2000.

The applicant contends that he is eligible for permanent resident status under the LIFE Act because his application for temporary residence under section 245A of the INA had been erroneously denied. The applicant asserts that an individual need not have applied for class membership in order to demonstrate eligibility for permanent resident status under the LIFE Act. However, the applicant has failed to cite any relevant regulation, statute, or legal precedent to support his arguments. Therefore, the applicant's assertions cannot be considered persuasive.

The record reflects all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership in a timely manner. Such check included a separate file, ~~A75-923-164~~, which contained a prior application to adjust status as the spouse of a United States citizen. That file has now been consolidated into the current record of proceedings. Given his failure to document that he timely filed a 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.