

PUBLIC COPY



U.S. Citizenship
and Immigration
Services

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

42

[Redacted]

FEB 20 2004

FILE: [Redacted]

Office: National Benefits Center

Date:

IN RE: Applicant: [Redacted]

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:

[Redacted]

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
for

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 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, the applicant asserts that the director erred in denying his LIFE application and submits photocopies of two documents which he contends establish that he “applied for class membership.”

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.

On February 2, 1993 the applicant filed a request with the Immigration and Naturalization Service (now Citizenship and Immigration Services, or CIS) to accept a constructive filing for temporary resident status as a special agricultural worker (SAW) under section 210 of the Immigration and Nationality Act (INA). The applicant asserted that he had filed a SAW application at the agency’s Cleveland office during the statutory filing period of June 1, 1987 to November 30, 1988, but that the agency neglected to register it. The constructive filing request was denied by the Cleveland office on August 13, 1993. Even if the applicant had filed a timely application for SAW status, however, that would not constitute an application for class membership in any of the legalization class-action lawsuits, as required under section 1104(b) of the LIFE Act. Moreover, the LIFE Act contains no provision allowing for the reopening and reconsideration of an application for temporary resident status as a special agricultural worker under section 210 of the INA.

The applicant did not assert in his LIFE application, much less submit any supporting documentation, that he filed a written claim for class membership in any of the three legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*. Nor do CIS records reveal that any such claim was filed.

On appeal, the applicant asserts that the documentation establishes that he “applied for class membership,” though he fails to identify which of the three lawsuits he allegedly tried to join. The two documents submitted with the appeal are photocopies of materials already in the record. They include (1) an employment authorization card issued to the applicant on August 4, 1992, valid for one year, in connection with the applicant’s claim that he had filed a SAW application and (2) an interview notice issued by this agency’s Cleveland office on May 20, 1993, scheduling an appointment for the applicant to discuss his SAW application. Neither of these two documents relates to any written claim by the applicant for class membership in one of the legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*, as required to be eligible for legalization under section 1104(b) of the LIFE Act. The evidence of record, therefore, does not establish that the applicant filed a written claim for class membership prior to October 1, 2000 in any of the requisite legalization lawsuits.

Furthermore, section 1104(c)(2)(B)(i) of the LIFE Act requires that an applicant have entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status through May 4,

1988. Documentation from the applicant's earlier SAW proceeding indicates that the applicant first entered the United States from Mexico in November 1984. It is clear, therefore, that the applicant did not enter the United States before January 1, 1982, and did not reside in this country unlawfully for the requisite time period of January 1, 1982 through May 4, 1988, to be eligible for legalization under the LIFE Act.

For the reasons 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.