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U.S. Citizenship
and Immigration
Services

La

[Redacted]

FILE:

[Redacted]

Office: NATIONAL BENEFITS CENTER

Date: 11 11 20 2004

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann

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 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. The director also found the applicant inadmissible under section 212(a)(9)(C) of the Immigration and Nationality Act (the Act) due to his illegal entry into the United States. Accordingly, the director denied the application.

On appeal, counsel asserts that the director's decision suffers from "misreading and nonreading of evidence submitted in the case," and that the equities involved in the case have not been taken into consideration. Counsel states that a brief would be submitted within 30 days. However, ten months later, no brief has been presented by either counsel or the applicant.

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.

While the applicant claims that he filed for class membership, neither counsel nor the applicant has provided any evidence to corroborate this claim. The applicant timely filed an application for temporary resident status as a Special Agricultural Worker (SAW) under section 210 of the Act on November 30, 1988. The record does not reflect that a final decision has been rendered on the applicant's SAW application. Nevertheless, an application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits. Furthermore, no evidence has been presented to establish that the applicant had either previously filed or attempted to file a Form I-687 Application for Temporary Resident Status under section 245A of the Act.

The documents submitted in response to the Notice of Intent to Deny namely, a utility bill, a social security statement, a bank statement, a lease renewal and statements from the applicant and counsel do not establish that a timely written claim to class membership was filed prior to October 1, 2000.

The record reflects that on November 26, 1988, the applicant was apprehended by the Border Patrol in Yuma, Arizona and subsequently charged with illegal entry into the United States. The record, however, fails to contain any documentation suggesting that the applicant had been convicted of the offense or that the applicant was served with a Form I-860, Notice and Order of Expedited Removal and was expeditiously removed from the United States pursuant to section 235(b)(1) of the Act. Therefore, the applicant cannot be found to be inadmissible under section 212(a)(9)(C) of the Act. It must be noted that such grounds of inadmissibility may be waived pursuant to section 245A(d)(B)(i) of the Act; 8.C.F.R. § 245a.18(c)(1).

Given his failure to credibly document having filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act, and therefore the issuance of an application for waiver of inadmissibility is moot.

Further, the applicant's claim on his LIFE application to have last entered the United States on February 10, 1985 contradicts the date of his apprehension by the Border Patrol on November 26, 1988.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

The applicant has not provided any documents, which establish that he applied for class membership. Also, there are no records within Citizenship and Immigration Services, which demonstrate that the applicant applied for class membership. Given that, 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.