



U.S. Citizenship
and Immigration
Services

L-2

[Redacted]

FILE:

[Redacted]

Office: National Benefits Center

Date:

JUL 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. 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

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Administrative Appeals Office
U.S. Citizenship and Immigration Services
Washington, DC 20529

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 record failed to establish that the applicant or his mother, with whom he was applying, had filed a written claim for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000.

On appeal the applicant recited the LIFE Act provisions at length, discussed the legalization class-action lawsuits that led to the Act, and submitted voluminous documentation which assertedly shows that the applicant qualifies for LIFE legalization. The applicant points to one document in particular – an interview letter sent to his father in 1998 – which allegedly related to a claim for class membership in one of the legalization lawsuits.

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 May 4, 1988 the applicant filed a Form I-687, Application for Status as a Temporary Resident, under section 245A of the Immigration and Nationality Act (INA). Section 245A was added to the INA by the Immigration Reform and Control Act of 1986 (IRCA). The I-687 application was denied by the INS office in San Diego, California, for failure of the applicant to establish that he resided continuously in the United States from before January 1, 1982 until May 4, 1988 (the date his I-687 application was filed), as required by the Act and its implementing regulations. See 8 C.F.R. § 245a.2(b). In particular, the applicant was found to have “commute[d] daily back and forth from the U.S. to his home in Tecate, Mexico. Attending school in the U.S. but residing in Tecate, Mexico.” The applicant filed an appeal on June 23, 1993, but it was dismissed as untimely filed by the Legalization Appeals Unit (now incorporated in the AAO) on December 23, 1996.

There is no provision in the LIFE Act which authorizes the reopening or reconsideration of applications previously denied under IRCA. Nor does the applicant’s prior IRCA application constitute a claim for class membership in one of the subsequent legalization class-action lawsuits, *CSS*, *LULAC*, or *Zambrano*. An alien must have filed a claim for class membership in one of those three lawsuits before October 1, 2000 to be eligible for permanent resident status under section 1104(b) of the LIFE Act (which was enacted on December 21, 2000).

The applicant did not even assert in his LIFE application (Form I-485), much less submit any documentary evidence, that he filed a claim for class membership in one of the legalization class-action lawsuits. Since the applicant had a pre-existing A-file from his IRCA application, any written claim for class membership in *CSS*, *LULAC*, or *Zambrano* would almost certainly have been incorporated in the file. But there was no such class membership claim in the applicant’s file, or even a reference to any of the legalization class-action lawsuits, at the time the instant LIFE application was filed on May 27, 2002. That was long after the statutory deadline of October 1, 2000 to file a claim for class membership in one of the legalization lawsuits.

The applicant refers in his appeal to a notice sent by the Immigration and Naturalization Service (INS) to his father, [REDACTED] on September 10, 1998, scheduling an interview on September 17, 1998 at the INS office in National City, California, to discuss his "adjustment of status under section 245A." That interview notice does not appear to relate to any claim by the applicant's father for class membership in one of the legalization lawsuits. Rather, the 1998 interview relates to the legalization application the applicant's father filed under section 245A of the INA (the same statute under which the applicant filed his original legalization application in 1988). There is no evidence that the applicant's father ever applied for class membership in one of the legalization lawsuits. Therefore, the applicant cannot claim derivative status from him under the LIFE Act.

Thus, the record does not establish that the applicant or his parents filed a written claim for class membership in one of the legalization class-action lawsuits, *CSS*, *LULAC* or *Zambrano*, before October 1, 2000.

Accordingly, 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.