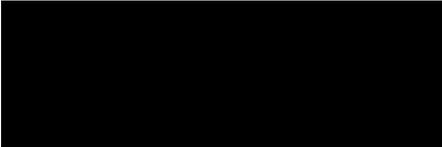


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U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

*h2*

FILE:



Office: National Benefits Center

Date: JUN 2 2004

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*

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 on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The directors concluded that the applicant had not established he had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal counsel asserted that the applicant has submitted the precise documentary evidence listed as the fifth item on an Immigration and Naturalization (INS) information sheet entitled "Examples of a Written Documentation for Claim for Class Membership," and has therefore proved his "class membership" for the purposes of the LIFE Act.

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.

The record shows that the applicant filed a Form I-687, Application for Status as a Temporary Resident, on May 4, 1988, as the first step in seeking legalization 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 Regional Processing Center in Williston, Vermont, on November 14, 1989, for failure of the applicant to appear for a scheduled legalization interview. In fact, the record documents that the applicant received two interview notices, initially scheduling the interview for December 15, 1988, and then rescheduling it for January 17, 1989. According to the interviewer's worksheet (Form I-696), the applicant failed to appear for either interview.

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).

Though the applicant asserted in his LIFE application (Form I-485) that was a "member of LULAC/CSS," he submitted no documentary evidence that he filed a claim for class membership in either of those class-action lawsuits before October 1, 2000. 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 9, 2002. That was more than a year and a half after the statutory deadline of October 1, 2000 to file a claim for class membership in one of the legalization lawsuits.

In his appeal counsel for the applicant asserts that the aforementioned interviewer's worksheet (Form I-696), indicating that the earlier I-687 application was being denied for lack of prosecution because the applicant twice failed to appear for scheduled interviews, constitutes one of the specific evidentiary examples of a claim for class membership listed on an INS information sheet. Example 5 on that INS document reads as follows: "Denial letter, from a Local/District Office, for failure to show for a requested second interview in connection with your legalization application." This language is confusing insofar as it neglects to specify that the denial letter must pertain to a claim by the applicant for class membership in one of the legalization class-action lawsuits, *CSS*, *LULAC*, or *Zambrano*, not to the applicant's original legalization application in 1988 under section 245A of the INA (IRCA). The interviewer's worksheet, however, *does* pertain to the applicant's original legalization application under section 245A of the INA. It does *not* pertain to any claim by the applicant for class membership in the *CSS* or *LULAC* lawsuits. As previously discussed, the two interview notices referenced in the interviewer's worksheet were connected with the applicant's legalization application under section 245A, not with a claim for class membership in *CSS* or *LULAC*. Likewise, the INS decision of November 14, 1989 (Form I-692), denying the applicant's I-687 application, references the applicant's failure to appear for legalization interviews pursuant to section 245A of the INA, not pursuant to any claim for class membership *CSS* or *LULAC*.

For the reasons discussed above, the record fails to establish that the applicant filed a written claim for class membership in one of the legalization class-action lawsuits, *CSS*, *LULAC* or *Zambrano*, before October 1, 2000, as required for him to be eligible for legalization under section 1104(b) the LIFE Act.

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.