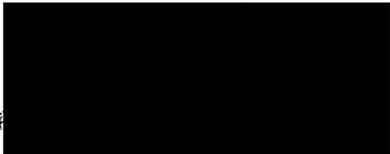


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U.S. Citizenship
and Immigration
Services

PUBLIC COMMENT



FILE:



Office: NATIONAL BENEFITS CENTER

Date JUN 3 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:

Self-represented

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. 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, 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 reiterates his claim that he is eligible for permanent residence under the LIFE Act, and that he has submitted all available documents demonstrating such eligibility.

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.

With his LIFE Act application, the applicant indicated that he attempted to file a legalization application for temporary residence under section 245A of the Immigration and Nationality Act (INA), but was told that he was not eligible by an employee of a Qualified Designated Entity, or QDE (a network of organizations designated by Congress in an effort to encourage and assist aliens in filing applications for temporary residence under both sections 210 and 245A of the INA). However, while the applicant may have been front-desked (informed that he was not eligible for temporary residence) when he attempted to file a legalization application, this action alone does not equate to having filed a written claim for class membership in any of the requisite legalization class-action lawsuits.

The applicant also included photocopies of the following documents with his LIFE Act application and his subsequent response to the notice of intent to deny:

- a Form I-687 legalization application that is signed by the applicant and dated November 30, 1988;
- a "Declaration of Eligibility Regarding CSS v. Meese Class Membership" that is signed by the applicant and dated February 11, 1989, bearing the letterhead of the Congress of Racial Equality Immigration Services (a QDE), in which he attested to his prior front-desking and his intent to pursue CSS class membership;
- a typewritten statement bearing the letterhead of the Congress of Racial Equality Immigration Services that is signed by the applicant and dated February 11, 1989, in which he declared that he had been informed by this organization that he was not eligible to file a legalization application for temporary residence under section 245A of the INA, but that it was still his intent to file the legalization application with the Service;
- a "Form for Determination of Class Membership in CSS v. Meese" that is signed by the applicant and dated March 16, 1990, and;

- a Legalization Front-Deskling Questionnaire that is signed by the applicant and dated September 20, 2000.

These documents are listed in 8 C.F.R. § 245a.14 as examples of documents which may be furnished in an effort to establish that an alien had previously applied for class membership. Although all of the documents are dated prior to October 1, 2000, the statutory deadline for the filing of written claims for class membership in a legalization class-action action under section 1104 of the LIFE Act, the record contains no evidence that any of these documents were submitted to the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Service, or CIS) prior to the filing of the LIFE Act application on September 16, 2002.

The applicant's claim that he attempted to file a legalization application for temporary residence under section 245A of the INA, but was told that he was not eligible by an employee of a QDE tends to be corroborated by the evidence submitted in support of the LIFE Act application. While the applicant may have been front-desked (informed that she was not eligible for legalization) by a QDE employee when he attempted to file a legalization application, this action alone does not equate to having filed a written claim for class membership in any of the requisite legalization class-action lawsuits. Furthermore, the applicant has never claimed that he subsequently either attempted to or in fact filed the legalization application and related documents with the Service in the interim period up until the filing of his LIFE Act application. The record contains no evidence that the applicant filed the legalization application and related documents with the Service or its successor CIS prior to the submission of LIFE Act application. If the applicant had actually submitted any of these documents prior to October 1, 2000, such documents would be in the possession of CIS, and the applicant could only have photocopies of what he had submitted up to this point in this current LIFE proceeding. As stated above an examination of CIS records fails to disclose any evidence of this applicant having previously filed such forms. In fact, no CIS A-file was ever created in the name of the applicant until he filed this LIFE Act application on September 16, 2002.

The record reflects that all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership in a timely manner. 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.