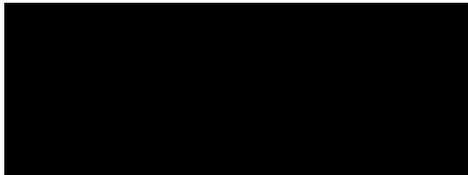




U.S. Citizenship
and Immigration
Services



FILE:



Office: National Benefits Center

Date: JUN 7 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, 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 she 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 asserts that the applicant filed a claim for class membership in one of the legalization lawsuits before October 1, 2000 and that she resided in the United States for the requisite time period of before January 1, 1982 through May 4, 1988. Counsel indicated that all supporting documentation had already been submitted.

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*, 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.

In addition, an applicant for permanent resident status under section 1104 of the LIFE Act must establish that he or she entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously through May 4, 1988. See section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

The record shows that the applicant filed a Form I-687, Application for Status as a Temporary Resident under section 245A of the Immigration and Nationality Act ("INA"), on April 22, 1988. 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 Facility in Williston, Vermont, on June 27, 1988. It was reopened and denied again by the same office on February 12, 1990 for failure of the applicant to establish that she resided unlawfully in the United States from before January 1, 1982 until the date the application was filed, as required under IRCA and its implementing regulations. See 8 C.F.R. § 245a.2(b). In particular, the decision stated that "you entered the United States with a B-2 visa on June 30, 1981 and were granted extensions of your authorized stay until 1986."

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).

In support of her LIFE application (Form I-485), the applicant submitted a photocopy of a Legalization Front-Desking Questionnaire, dated "1-2001," in which the applicant stated that she filed an application for legalization under IRCA on April 22, 1988 which was "rejected because I used a visitor's visa." As discussed above, the applicant's original I-687 application (for temporary resident status under IRCA)

was denied because the applicant had legal status in the United States from 1981 to 1986. As proof thereof the record includes a photocopy of an I-94, Departure Record, and an original Form I-539, Application to Extend Time of Temporary Stay, establishing that the applicant was admitted to the United States in B-2 status on June 30, 1981 and was granted a series of extensions in that status through July 8, 1986. Thus, it is clear that the applicant did not reside in the United States in continuous illegal status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B)(i) of the LIFE Act. Moreover, even if the applicant did meet this continuous illegal residence requirement, the Legalization Front-Desk Questionnaire does not constitute evidence of a timely filed claim for class membership in one of the legalization lawsuits because it was not even dated until January 2001. That was several months after the October 1, 2000 deadline, set in section 1104(b) of the LIFE Act, to file a claim for class membership. Nor has the applicant submitted any other documentary evidence of a timely claim for class membership in one of the legalization lawsuits.

For the reasons discussed above, the record fails to establish the applicant's eligibility for permanent resident status under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.