



U.S. Citizenship
and Immigration
Services

[REDACTED]

FILE:

[REDACTED]

Office: MIAMI

Date:

JUN 15 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. 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

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Miami, 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, counsel asserts the applicant did request membership in the LULAC lawsuit. Counsel claims the previously-furnished employment authorization card is evidence of such class membership request.

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. See 8 C.F.R. § 245a.14. Pursuant to 8 C.F.R. § 245a.14(a), evidence which may be submitted includes an Employment Authorization Document (EAD) or other employment document issued by the Service pursuant to the alien's class membership in the *CSS*, *LULAC* or *Zambrano* lawsuit.

The EAD furnished by the applicant in this proceeding contains the notation "C22," which refers to 8 C.F.R. § 274a.12(c)(22). That regulation relates to the employment authorization of an alien who had filed a legalization application pursuant to section 245A of the Immigration and Nationality Act. That is exactly what occurred in the case of the applicant. He filed such a legalization application on March 8, 1988. Although that application was denied, his appeal of that denial has remained pending, and he has remained eligible for employment authorization on that basis. Although the director stated in the denial notice that the legalization appeal had been dismissed, and therefore the EAD was issued in error, such is not the case. The EAD was issued pursuant to the pending appeal of the legalization application.

There is no evidence in the record demonstrating that, after filing the legalization application, the applicant requested class membership in the LULAC lawsuit. Counsel has not stated when and where the applicant allegedly made such request, and has not provided any copies of applications or questionnaires upon which he would have made such a request. Most importantly, the LULAC lawsuit applies only to aliens who claim they had been improperly *prevented* from applying for legalization. The applicant's

legalization application was *accepted* and adjudicated, and there was no need or logical reason for him to have applied for class membership in any of the legalization class-action lawsuits.

Given his failure to establish having filed a written claim for class membership in any of the class-action lawsuits, 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.