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LA

FILE:

Office: NATIONAL BENEFITS CENTER

Date: JUN 16 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. 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

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

In both decisions, the directors 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 of the initial decision, counsel for the applicant makes reference to affidavits submitted previously in support of his claim to having resided in the U.S. from prior to January 1, 1982 until May 4, 1988.

The applicant does not respond to the subsequent decision.

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), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993). 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. The regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

Along with his LIFE application, the applicant included a photocopy of an undated Form I-687, Application for Status as Temporary Resident under Section 245A of the Immigration and Nationality Act. According to correspondence from counsel, the applicant had attempted to submit his I-687 to the New York legalization office of the Immigration and Naturalization Service or the Service (now, Citizenship and Immigration Services) during the May 5, 1987 to May 4, 1988 application period. However, according to counsel, the applicant was discouraged from filing his application. Counsel further asserted that the applicant returned to this Service office in 1990 to file an application for class membership under the CSS class-action lawsuit, at which time he was requested to leave his documentation at the office and was told that he would be receiving an appointment notice regarding his class membership application. Counsel indicated that the applicant received no subsequent correspondence or appointment notice from this office concerning this application.

Counsel's assertions regarding the applicant's attempts at applying initially for legalization and, subsequently, for class membership in CSS can be neither confirmed nor rebutted from the record. There is no indication in CSS administrative or electronic records of the applicant ever having attempted to submit an application for legalization or of the applicant having filed a timely written claim in CSS. Nor is there any indication or evidence of the applicant having submitted any application to the Service prior to his having filed his LIFE application on April 29, 2002.

Moreover, as noted in the director's subsequent decision, the photocopied, undated Form I-687 provided by the applicant was completed and signed in ink. As such, the I-687 application must be deemed an original document, rather than a photocopy of what counsel is claiming the applicant had submitted in the past. Counsel, however, does not indicate whether or not this "original" I-687 is, in fact, a "reconstructed" document. In any case, a reconstructed document of this nature, created after the fact, does not constitute original evidence of an applicant having applied for legalization from May 4, 1987 to May 4, 1988, or for class membership prior to October 1, 2000.

The applicant has failed to submit documentation which credibly establishes his having filed a timely written claim for class membership in CSS or in any of the aforementioned legalization class-action lawsuit. Given this, he 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.