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FILE:

Office: NATIONAL BENEFITS CENTER

JUN 16 2004
Date:

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. 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, the applicant asserted that in 1988, he filed an application for temporary residence (legalization) under the Immigration Reform and Control Act of 1986 (IRCA). The applicant further asserted that after moving to Arkansas in 1990, he was unable find any conveniently-located offices of the Immigration and Naturalization Service or the Service (now, Citizenship and Immigration Services or CIS) or immigration attorneys who could have assisted him with filing a claim for class membership in any of the legalization class-action lawsuits.

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)(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.

Along with his LIFE application, the applicant submitted a photocopy of page 1 of a Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (INA). This incomplete photocopy of a Form I-687 relates to a previously-filed application he had submitted for temporary resident status (legalization). A review of the record shows that this application was timely filed with the Service on April 5, 1988. The application was subsequently denied by the Director, Southern Regional Processing Facility, on April 24, 1990. In any case, an application for temporary residence which was timely filed during the original application period for legalization [May 5, 1987 to May 4, 1988] does *not* constitute a written claim for class membership in a legalization class-action lawsuit. Furthermore, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed application for temporary resident status under section 245A of the INA.

In response to the director's initial notice of intent to deny, the applicant submitted a photocopy of a communication dated April 5, 1988, in which the applicant gave his signed consent to having his I-687 application forwarded to the Service by the [REDACTED] which is identified as a qualified designated entity. This communication, however, relates to the applicant's aforementioned application for legalization, and does not pertain to the filing of a class membership claim.

The applicant, on appeal, asserted that after moving to Arkansas in 1990, he was unable find any conveniently-located offices of the Immigration and Naturalization Service or the Service (now, Citizenship and Immigration Services or CIS) or immigration attorneys who could have assisted him with filing a claim for class membership in any of the legalization class-action lawsuits. However, there are Service offices located in Ft. Smith, Arkansas (the applicant's home state), as well as adjacent New Orleans, Louisiana, Memphis, Tennessee, Louisville, Kentucky, and Jackson, Mississippi, from which the applicant could have at least obtained written and telephonic assistance in acquiring information and forms necessary to file a class membership claim. These offices could also have provided the applicant with referrals to private voluntary organizations as well as legal assistance resources. In any case, the responsibility of filing an application for class membership in a timely manner rests solely with the applicant. The failure of the present applicant to undertake such filing must be deemed to be of his own making.

The applicant has submitted no documentation establishing his having filed a timely written claim for class membership in any of the aforementioned legalization class-action lawsuits. 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.