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LA

FILE:

Office: National Benefits Center

Date: JUN 25 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 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 he 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, the applicant asserts that he qualifies for LIFE legalization because he filed a Legalization Front-Desk Questionnaire before the February 2, 2001 deadline specified by the Immigration and Naturalization Service (INS), and it was approved by the INS on July 26, 2001.

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, 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 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.

Along with his LIFE application (Form I-485) the applicant submitted a photocopy of a Legalization Front-Desk Questionnaire, dated “12-2000,” in which the applicant asserted that he attempted in 1987 or 1988 to file an I-687 form (seeking temporary resident status as the first step in the process of legalization under section 245A of the Immigration and Nationality Act), but was told he did not qualify. The applicant also submitted a photocopy of a certified mail receipt indicating that something (presumably the questionnaire) was mailed from Houston, Texas, on December 11, 2000 and received by the Vermont Service Center on December 15, 2000. The applicant’s file does include the *original* of the front-desking questionnaire, which was stamped as received by the INS, Vermont Service Center, on January 30, 2001. In order to qualify for late legalization under section 1104(b) of the LIFE Act, however, an alien must demonstrate that he or she had filed a written claim for class membership in one of the class-action legalization lawsuits prior to October 1, 2000. The applicant’s Legalization Front-Desk Questionnaire, whether it was received in Vermont on December 15, 2000 or January 30, 2001, did not meet the statutory filing deadline and thus does not constitute a timely claim for class membership in one of the legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*.

The February 2, 2001 deadline served another purpose unrelated to claims for class membership in the legalization lawsuits, as is apparent in the Vermont Service Center’s letter to the applicant on July 26, 2001. In that letter, a copy of which was submitted with the applicant’s LIFE application, the Vermont Service Center informed the applicant that “[t]he legalization questionnaire you submitted to seek an adjudication of your application for legalization benefits has been reviewed . . . to address your claim that you physically tendered a completed application . . . to an . . . INS . . . employee between May 5, 1987 and May 4, 1988, but had it rejected by that employee.” The Vermont Service Center concluded that “you have established your claim.” The applicant was advised to mail a Form I-687 application and other pertinent evidence “to support your claim for eligibility for lawful temporary resident status.” In other

words, by filing a questionnaire before February 2, 2001 that demonstrated he was “front-desked” when he originally tried to apply for legalization, the applicant was eligible to file a Form I-687 with the Texas Service Center and have it adjudicated as if it had been filed during the original filing period in 1987-88. However, a Form *I-687* application for *temporary* resident status (filed at the Texas Service Center) pursuant to the approval letter from the Vermont Service Center is not the same thing as a Form *I-485* application for *permanent* resident status (filed at the Missouri Service Center) under the LIFE Act. The applicant appears to have recognized this difference in his response to the second Notice of Intent to Deny his LIFE application, and indicated therein that he would send his Form I-687 and supporting evidence to the Texas Service Center for adjudication of his application for temporary resident status.

With his statement on appeal the applicant also submitted photocopies of a Form I-687 and a Form for Determination of Class Membership in *CSS v. Reno*, both of which bear the applicant’s signature and are dated July 18, 1996. The applicant has not submitted any evidence, such as postal receipts or acknowledgement letters from INS (now Citizenship and Immigration Services, or CIS) that either of these forms was sent to and received by the agency in 1996, or any time prior to October 1, 2000. In fact, CIS has no record of receiving either document until the instant appeal was filed on November 25, 2002. That was more than two years after the statutory deadline – October 1, 2000 – to file a claim for class membership in *CSS*, or either of the other two legalization lawsuits. *See* section 1104(b) of the LIFE Act. Moreover, the applicant has not explained why, if he actually had the Form I-687 and the *CSS* class membership determination form in his possession since 1996, he did not submit them *with* his LIFE application, instead of waiting until the appeal. Applicants were specifically instructed to submit supporting documentation with their applications.

Thus, the record fails to establish that the applicant filed a claim for class membership in *CSS*, or either of the other legalization lawsuits, *LULAC* or *Zambrano*, before October 1, 2000, as required under section 1104(b) of the LIFE Act.

Accordingly, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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