



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted] Office: National Benefits Center Date: JUN 30 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

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, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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, the applicant stated that the Service erred in denying his application on the basis that he did not establish through the document submitted that he had applied for class membership. The applicant submitted a letter from the Immigration and Naturalization Service (INA) in Vermont and asserted that in that letter, they acknowledge receiving his questionnaire in support of his application for legalization filed prior to October 2000. The applicant further stated that the record would show that he filed on June 5, 2000, and that such document(s) had been submitted.

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. That same regulation provides that, in the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership before October 1, 2000. However, the applicant must establish that the family relationship existed at the time the spouse or parent initially attempted to apply for temporary residence (legalization) in the period of May 5, 1987 to May 4, 1988.

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.

The applicant failed to submit any documentation to establish that he had filed a written claim for class membership before October 1, 2000 when the application was filed.

The record reflects that the applicant asserted that his spouse was applying with him. However, as the applicant was married on February 7 1990, the requisite relationship to his spouse did not exist when she may have attempted to apply for legalization during the May 5, 1987 through May 4, 1988 period. Therefore, the applicant cannot derive status from his spouse under section 1104 of the LIFE Act.

On rebuttal to a notice of intent to deny dated December 17, 2001, the applicant provided a photocopy of a letter to the applicant from the Immigration and Naturalization Service's Vermont Service Center dated February 24, 2001 denying the applicant's Form I-765, Application for Employment Authorization. The letter stated "On September 15, 2000, we requested evidence to show that you have an approved Questionnaire. In response, you submitted a statement indicating that a questionnaire was filed. A review of our records does not

show that you have an approved Questionnaire.” The questionnaire referred to related to aliens who claimed they had not been allowed to apply for legalization during the 1987-88 filing period.

On rebuttal to a second notice of intent to deny dated July 24, 2003, sent after the case was reopened, the applicant provided a photocopy of such “Legalization Front-Desking Questionnaire,” purportedly signed by the applicant on May 10, 2000 in which he asserted that he attempted to file an application for legalization under the Immigration Reform and Control Act of 1986 in New Jersey in June 1987. He also provided a photocopy of a “Legalization Questionnaire” purportedly signed by the applicant on May 10, 2000 and a photocopy of a Form I-765 Application for Employment Authorization purportedly signed by the applicant on May 10, 2000.

Citizenship and Immigration Services (CIS), successor to the Immigration and Naturalization Service (INS), has no record of receiving the original of the Legalization Front-Desking Questionnaire or the Legalization Questionnaire from the applicant. The application for employment authorization and subsequent letter from the Vermont Service Center denying the applicant’s employment request do not substantiate that the applicant made a timely written claim for class membership. Furthermore, questionnaires sent to Vermont in 2000 did not constitute requests for class membership. Rather, they were part of a process that would allow aliens to apply for legalization directly, rather than through class membership, if the questionnaires were approved.

The applicant’s evidence consists of photocopies of questionnaires purportedly submitted in 2000 that do not relate to a request for class membership. Accordingly, the applicant is ineligible for permanent resident status under section 1104(b) of the LIFE Act.

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