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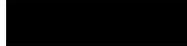
U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services



FILE:



Office: National Benefits Center

Date: **MAR 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:

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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

The director concluded that the applicant had not established 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 asserts that he was “claiming eligibility for LIFE benefits under CSS membership.” The applicant states that he “tried to file for amnesty at the San Francisco INS Office,” but that the INS official told him he did not qualify and returned the packet of materials. The applicant further asserts that he “later filed a written claim for class membership” in *CSS, infra*.

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.

The applicant filed a timely application for temporary resident status as a special agricultural worker (SAW) under section 210 of the Immigration and Nationality Act (INA) on April 11, 1988. The application was denied on March 28, 1992. The applicant filed an appeal which was dismissed by the Legalization Appeals Unit (predecessor to the AAO) on April 29, 1997. An application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits, as required under section 1104(b) of the LIFE Act. Furthermore, the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status as a special agricultural worker under section 210 of the INA.

In his LIFE application the applicant did not indicate, or submit any documentary evidence, that he had filed a claim for class membership in any of the legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*. Subsequently, in response to the director’s notice of intent to deny, the applicant submitted a statement indicating that he tried to file an “amnesty application” at the San Francisco INS office in 1989, “but after a very short interview, I was turned down . . . because I had left the United States for a short visit to Mexico.” Not until his appeal of the director’s decision denying his application did the applicant assert that he “later filed a written claim for class membership” in *CSS*, as required to be eligible for legalization under the LIFE Act.

The applicant has not explained why he waited until the appeal to assert that he filed a written claim for class membership in *CSS*. He has provided no details about the time frame of the alleged written claim, nor any documentary evidence thereof. He has also not explained why he would even have requested class membership in *CSS* if his SAW application or appeal was still pending. Since the applicant had a pre-existing A-file based on his earlier SAW application, a written claim for class membership in *CSS* would almost certainly have been incorporated in that file. The fact that it was not raises the fundamental question of whether any such claim was actually made. The applicant has not provided any of the documents listed in 8 C.F.R. § 245a.14 which could demonstrate that he applied for class membership in *CSS* prior to October 1, 2000, as required under section 1104(b) of the LIFE Act. Nor are there any records within Citizenship and

Immigration Services (previously the Immigration and Naturalization Service) which indicate that the applicant applied for class membership in *CSS*.

Based on the evidence of record, therefore, it is concluded that the applicant has failed to establish that he filed a written claim for class membership in *CSS*, or either of the other two legalization lawsuits, 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.