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U.S. Citizenship
and Immigration
Services

FILE:

Office: National Benefits Center

Date:

MAR 24 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. 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 is now before the Administrative Appeals Office (AAO) on appeal. 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, counsel states that the applicant has proof of entry into the United States prior to January 1982. Counsel submits a letter from an individual named R. C. Hatthorn in Freeport, Texas, dated September 19, 1989 and stamped as received by the Southern Regional Processing Center on October 2, 1989, asserting that the applicant had worked for him on and off throughout the 1980s and had worked with him on a specific project from right after Thanksgiving 1981 until February 1982.

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that he or she before October 1, 2000 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 record shows that the applicant filed a Form I-687, Application for Status as a Temporary Resident, on May 4, 1988, as the first step in seeking legalization under section 245A of the Immigration and Nationality Act (INA). Section 245A was added to the INA by the Immigration Reform and Control Act of 1986 (IRCA). The I-687 application was denied by the Southern Regional Processing Facility on February 8, 1990, for failure of the applicant to establish that he entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status until the date the application was filed, as required in the Act and its implementing regulations. See 8 C.F.R. § 245a.2(b). In particular, the decision noted that the applicant had not submitted any evidence of his entry into the United States before January 1, 1982 and continuous residence in the country until February 1, 1982. The applicant filed an appeal, which was dismissed by the Legalization Appeals Unit (the AAO's predecessor office) on April 8, 1993. The applicant requested that his case be reopened or reconsidered, but the request was rejected by the Legalization Appeals Unit on June 8, 2000.

The applicant's I-687 filing in 1988 was the first step (an application for temporary resident status) in the process of seeking permanent resident status under IRCA (section 245A of the INA). It did not constitute a claim for class membership in one of the subsequent legalization class action lawsuits, *CSS*, *LULAC*, or *Zambrano*, as required for an alien to be eligible for permanent resident status under section 1104(b) of the LIFE Act, which was enacted on December 21, 2000.

Though the applicant referred on his Form I-485 application to "CSS/Meese" as the basis of his eligibility under the LIFE Act, he submitted no documentary evidence that he had filed a claim for class membership in that lawsuit. In response to the director's notice of intent to deny, counsel sent a brief letter stating that he was enclosing evidence of the applicant's timely written claim for class membership in *CSS*. In fact, no such evidence of a claim for class membership was enclosed. On appeal, counsel submitted evidence in support of the applicant's contention that his unlawful residence in the United States began before January 1, 1982, as required under section 1104(c)(2)(B)(i) of the LIFE Act. But he did not even address the issue of the

applicant's alleged claim for class membership in *CSS*, much less submit any documentary evidence thereof. Since the applicant had a pre-existing A-file from his earlier I-687 application, any written claim for class membership in *CSS* would almost certainly have been incorporated in that file. But there was no such class membership claim or even a reference to *CSS* in the file, nor elsewhere in the records of the Immigration and Naturalization Service (now Citizenship and Immigration Services), until the instant LIFE application was filed on June 4, 2002.

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