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U.S. Citizenship
and Immigration
Services



FILE:



Office: National Benefits Center

Date: **MAR 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:



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 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 any of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, counsel asserts that the Immigration and Naturalization Service (Vermont Service Center) specifically recognized the applicant as a class member or class member applicant in the *CSS v. Reno* lawsuit, *infra*, and that the applicant had also submitted a questionnaire to establish a claim for class membership in the *LULAC v. INS* lawsuit, *infra*. Counsel submitted photocopies of two letters from the Vermont Service Center to the applicant, both of which were already in the record, which allegedly support the applicant's assertion that he filed a timely claim for class membership.

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 documentation submitted on appeal consists of two letters to the applicant from the Vermont Service Center, both dated February 28, 2001, which were previously in the record and fully discussed in the decision issued by the director of the National Benefits Center. One of the letters denied the applicant's Form I-765, Application for Employment Authorization, because the questionnaire he had submitted failed to establish that he had been "front-desked" during the original filing period for applications under section 245A of the Immigration and Nationality Act (INA). Counsel cites language on page one of this letter stating that: "Service records indicate you are a class member or a class member applicant of the class action lawsuit, *CSS v. Reno*." Page two of the letter further explained that "you submitted a questionnaire to this Service on October 27, 2000." The questionnaire was denied on December 18, 2000, however, because the applicant "failed to establish your claim that a Service officer or QDE [qualified designated entity] refused to accept your legalization application during the designated time period between May 5, 1987, and May 4, 1988." The second letter from the Vermont Service Center denied the applicant's "claim to seek adjudication of your application for legalization benefits" under section 245A of the INA. The applicant was advised that his questionnaire, "signed and dated on October 27, 2000 ... failed to provide sufficient details or credible information to support your claim ... that you physically tendered a completed application ... to an INS or QDE office employee between May 5, 1987 and May 4, 1988, but had it rejected by the employee."

There is no indication in either of these letters that the applicant filed a claim for class membership in *CSS*, or *LULAC*, prior to October 1, 2000, as required to be eligible for legalization under section 1104(b) of the LIFE Act. The record includes the applicant's original questionnaire, dated October 27, 2000, in which he asserts that an INS office in Miami, Florida, refused to accept his application for legalization under the Immigration Reform and Control Act of 1986. Since the questionnaire was dated after the statutory deadline of October 1, 2000, for purposes of the LIFE Act it cannot constitute a timely claim for class membership in *CSS*, or *LULAC*.

Counsel refers to the language in the Vermont Service Center's letter of February 28, 2001, denying the application for employment authorization, stating that "Service records indicate you [the applicant] are a class member, or a class member applicant of the class action lawsuit, *CSS vs. Reno*." (Emphasis added.) This appears to be boilerplate language that, in sum, simply acknowledges that the applicant applied for class membership in *CSS*. It does not state that the applicant actually qualified as a class member. Indeed, the letter closes with the determination that the applicant did *not* qualify for class membership in *CSS* because the applicant's questionnaire of October 27, 2000 was denied on December 18, 2000, for failure to establish that the INS or a QDE had refused to accept a legalization application from him between May 5, 1987 and May 4, 1988. This determination was consistent the Vermont Service Center's explanation in its other letter of February 28, 2001, denying the application for legalization benefits based on the claim of a pending I-687 form under section 245A of the INA, that the applicant's questionnaire was not sufficiently detailed or credible to support his claim for class membership. Thus, regardless of when the questionnaire was filed, the Vermont Service Center did not view the information provided therein as establishing the applicant's class membership qualifications.

In any event, for the purposes of late legalization under the LIFE Act, the applicant has failed to establish that he filed a written claim for class membership in *CSS*, or *LULAC*, or the other legalization lawsuit, *Zambrano*, before October 1, 2000, as required under section 1104(b) of the 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.