



U.S. Citizenship  
and Immigration  
Services

L2



FILE: [Redacted]

Office: NATIONAL BENEFITS CENTER

Date:

IN RE: Applicant: [Redacted]

MAY 18 2004

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

prevent clearly unwarranted  
invasion of personal privacy

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

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

In both decisions, 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 of the initial decision, the applicant submitted a separate statement in which he requested that a decision by the Immigration and Naturalization Service or the Service (now, Citizenship and Immigration Services, or CIS) in a prior proceeding be reopened and reconsidered.

The applicant does not respond to the subsequent decision.

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 (LULAC) v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc. (CSS)*, 509 U.S. 43 (1993) (LULAC), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano (Zambrano)*, 509 U.S. 918 (1993) (Zambrano). See 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 failed to submit any documentation addressing this requirement when the application was filed, in rebuttal to the notice of intent to deny, or on appeal. An examination of the record of proceedings discloses that the applicant timely filed a Form I-700 Application for Temporary Resident Status as a Special Agricultural Worker (SAW) under section 210 of the INA on March 21, 1988, and the application was denied on August 28, 1991. The applicant's appeal to the denial of his application was dismissed by the AAO on November 30, 1993. In any case, an application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits.

In response to the service center director's notice of intent to deny and, subsequently, on appeal of the initial decision, the applicant requested that the January 10, 1992 INS decision denying his SAW application be reconsidered on grounds of having purportedly been denied due process. However, in this case, the adverse information used by the Service to deny the SAW application directly contradicted the applicant's claim and clearly negated any inference from the original evidence that the purported agricultural employment alleged by the applicant actually occurred. Consequently, the burden of proof shifted back to the applicant, who subsequently failed to submit sufficient credible evidence to meet his secondary burden of proof of

overcoming the adverse information. Consequently, the burden of proof shifted back to the applicant, who subsequently failed to provide sufficient credible evidence to meet his secondary burden of proof of overcoming the adverse information. Accordingly, the applicant's due process was not violated in this prior proceeding.

Furthermore, section 1104 of 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. Finally, as previously noted, the applicant's SAW claim was found by the Service to be fraudulent. This fact, in and of itself, serves to further diminish the applicant's overall credibility in the current LIFE proceeding.

Given the applicant's failure to provide credible documentation establishing that he filed written claim for class membership in any of the aforementioned legalization class-action lawsuits prior to October 1, 2000, he is ineligible for permanent resident status under section 1104 of the LIFE Act.

On the applicant's G-325A Biographic Information Form, however, the applicant indicated that he resided in his native Bangladesh from June 1965 until June 1985. Pursuant to 8 C.F.R. § 245a.11(b), each applicant for permanent resident status under the LIFE Act is required to demonstrate that he or she entered and commenced residing in the United States *prior to January 1, 1982*. Given the applicant's inability to meet the statutory requirement of residence in the United States since before January 1, 1982, he is ineligible for permanent residence on this basis as well.

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