

Public Law 106-553
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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

[Redacted]

FILE: [Redacted] Office: NATIONAL BENEFITS CENTER Date: MAY 28 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. The file has been returned to the National Benefits Center. If your appeal was sustained, or if your case 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 initially denied by the Director, Missouri Service Center. The matter was subsequently reopened and denied again by the Director, National Benefits Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The directors both 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 from the initial denial, the applicant reiterated the claim that he previously filed for class membership. The applicant submits documentation in support of the appeal.

The record shows that subsequent to the reopening of the case, counsel submitted additional material to supplement the appeal. Therefore, this material shall be incorporated into the applicant's appeal.

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.

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 document that he had applied for class membership in any of the requisite legalization lawsuits in his LIFE Act application. Rather, the applicant provided documentation relating to the prior adjudication of the separate application for temporary resident status (legalization) under section 245A of the Immigration and Nationality Act (INA). Such documentation was also provided in response to both notices of intent to deny, as well as on appeal. The record reflects that the applicant timely filed his application for temporary resident status under section 245A of the INA on May 3, 1988. The legalization application was ultimately denied on March 2, 1992. The applicant appealed this denial of his legalization application and his appeal was dismissed by the AAO on November 24, 1993. Section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of the matter, as the original application for temporary resident status under section 245A of the INA had been filed by the applicant in a timely manner.

The fact that an alien filed a timely legalization application does not establish eligibility to adjust to permanent residence under the LIFE Act. The legalization class-action lawsuits discussed above relate to aliens who claim they did not file applications in the 1987-1988 period because they were improperly dissuaded by Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) from doing so. The applicant provided no explanation as to why he would have sought membership in the legalization class-action lawsuits as he had not been improperly dissuaded by the Service and did file a timely application on May 3, 1988.

In addition, both the applicant and counsel have provided documentation related to prior deportation proceedings instituted by the Service against the applicant, in which the applicant was assigned the separate Alien Registration Number, otherwise known as a A-number or file number [REDACTED]. The record reveals that the applicant was placed into deportation proceedings because he had been apprehended by the United States Border Patrol for illegal entry into the United States on February 7, 1986. A review of such documents fails to demonstrate that the

applicant made a written claim to class membership in any of the requisite legalization class-action lawsuits during the course of such deportation proceedings.

The record reflects all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership. Such check included separate files, [REDACTED] the Record of Deportable Alien discussed above, and [REDACTED] a separate Form I-485, Application for Permanent Residence, submitted by the applicant in November 1994, as a result of his mistaken belief that a Form I-130, Alien Relative Visa Petition, submitted on his behalf had been approved. These files have now been consolidated into the current record of proceedings. Given his failure to document that he timely filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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