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U.S. Department of Homeland Security
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Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**



FILE:



Office: National Benefits Center

Date: MAY 18 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, National Benefits Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the record did not establish the applicant had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

As specified in the regulations: "If an appeal is filed from within the United States, it must be received by the [Immigration and Naturalization] Service [now Citizenship and Immigration Services, or CIS] within 30 calendar days after service of the Notice of Denial (NOD)." 8 C.F.R. § 245a.20(b)(1). "The 30 day period for submitting an appeal begins 3 days after the NOD is mailed." *Id.* The Notice of Decision in this case is dated May 23, 2003, but the applicant has submitted a photocopy of the envelope in which it was mailed with a postal stamp dated June 19, 2003. The applicant's appeal was stamped as received by the AAO on June 27, 2003. That was eight days after the NOD was mailed. Accordingly, the applicant's appeal was timely filed.

On appeal, the applicant asserts that he filed a timely claim for class membership in the *LULAC* lawsuit, *infra*, and submits copies of documentation already in the record which allegedly prove that such a claim was filed.

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.

When he filed his LIFE application (Form I-485) the applicant also submitted a photocopy of a Form I-687, Application for Temporary Resident Status (Under Section 245A of the Immigration and Nationality Act), bearing the applicant's signature and the date November 25, 1989. The applicant asserts that he mailed the original I-687 form to the INS office in Vermont. In response to the director's Notice of Intent to Deny the applicant submitted photocopies of a *LULAC* Class Member Declaration, signed by the applicant and dated June 28, 1992, as well as a Legalization Front-Desking Questionnaire, signed by the applicant and dated October 20, 2000. The applicant resubmitted all three of these documents on appeal.

The applicant's evidence of a timely filed claim for class membership in *LULAC* is less than persuasive. With respect to the first two documents – the Form I-687 and the *LULAC* Class Member Declaration – the applicant has not submitted any evidence, such as postal receipts or acknowledgement letters from the agency, that the original documents were actually submitted to the INS in November 1989 and June 1992, respectively, as alleged. CIS (INS) has no record of receiving the documents in 1989 and 1992, or any other time before October 1, 2000, as required for them to be considered as a timely claim for class membership in *LULAC*. In fact, CIS has no record of receiving the Form I-687 until October 4, 2002 (accompanying the LIFE application) and the *LULAC* Class Member Declaration until March 4, 2003 (in response to the Notice of Intent to Deny). Both of those dates were long after the statutory deadline of October 1, 2000, to file a claim for class membership in *LULAC* or the other two legalization lawsuits.

As for the Legalization Front-Desking Questionnaire, it bears the date October 20, 2000. That was after the October 1, 2000 deadline for filing a class membership claim in one of the legalization lawsuits. On appeal the applicant asserts that the questionnaire was timely filed "because on the attached instructions it was stated that the deadline was February 2, 2001." The February 2, 2001 deadline, however, appeared in INS instructions that were issued prior to the enactment of the LIFE Act. Those instructions related only to the February 2, 2001 deadline for attempting to obtain class membership in the legalization class-action lawsuits. The aliens who acquired class membership will eventually be notified as to how they may proceed under the litigated settlement. That settlement is entirely outside the scope of this current proceeding under the LIFE Act.

Here, *in the current proceeding*, the applicant has not applied for class membership in a lawsuit but rather has applied directly to CIS for permanent resident status under the LIFE Act. The basic statutory requirement of having filed for class membership by October 1, 2000 must still be met in all LIFE cases, regardless of the other previously-authorized administrative deadline established for filing questionnaires. The applicant's Legalization Front-Desking Questionnaire does not meet that deadline. Moreover, there is no evidence that the questionnaire was even submitted before February 2, 2001. Though it bears the date October 20, 2000, CIS has no record of receiving the questionnaire at that time. In fact, CIS has no record of receiving the questionnaire until March 4, 2003 (as part of the applicant's response to the Notice of Intent to Deny). That was nearly two and a half years after the deadline set in 1104(b) of the LIFE Act to file a claim for class membership in *LULAC*, or one of the other legalization lawsuits.

For the reasons discussed above, the record fails to establish that the applicant filed a claim for class membership in *LULAC*, or one of the other 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.