



U.S. Citizenship  
and Immigration  
Services



LA

FILE:



Office: MISSOURI SERVICE CENTER

Date: **MAY 19 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:



**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**PUBLIC COPY**

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Missouri Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director 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. The director also concluded that the applicant had been found inadmissible under section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (the Act) because he had made a false claim to United States citizenship. Consequently, the director denied the application.

On appeal, counsel argues that to deny the applicant's eligibility for 245A benefits due to an alleged misrepresentation as an United States citizen violates his right to equal protection under the Fifth Amendment. Counsel asserts that the applicant's claim under the Family Fairness Act renders him a claimant under the LIFE Act.

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.

An applicant for permanent resident status under the provisions of LIFE Act must establish that he is admissible to the United States as an immigrant, except as otherwise provided under section 245A(d)(2) of the Act. Section 1140(c)(2)(D)(i) of the LIFE ACT.

Along with his LIFE application, the applicant submitted a copy of: 1) his Form I-94; 2) his Form I-817, Application for Family Unity Benefits; 3) a receipt for his Form I-817 Application; and 4) a Notice of Decision issued on July 25, 1991 denying his Form I-817 Application. As previously mentioned by the director in his Notice of Decision, none of the above documentation establishes that the applicant had filed a written claim to class membership prior to October 1, 2000.

In response to the Notice of Intent to Deny issued on October 18, 2002, counsel asserted a claim under section 245A of the Act. Counsel provided another copy of the July 25, 1991 Notice of Decision and stated that this notice was sufficient evidence that the applicant filed a claim to class membership prior to October 1, 2000.

Contrary to counsel's assertion, an application for benefits under the Family Fairness Program does not constitute an application for class membership in any of the legalization class-action lawsuits. Furthermore, Citizenship and Immigration Services records fail to disclose any evidence that the applicant had filed or attempted to file a Form I-687 Application under section 245A of the Act.

The record reflects that on July 8, 2001, the applicant applied for admission into the United States by claiming to be a United States citizen. The applicant was found inadmissible under section 212(a)(6)(C)(ii) of the Act, and was processed for Expedited Removal. The applicant was served with a Form I-860, Notice and Order of Expedited Removal and was expeditiously removed from the United States pursuant to section 235(b)(1) of the Act. The applicant indicated on his LIFE application that he re-entered the United States without lawful admission in July 2001.

The fact that the applicant was removed under section 212(a)(6)(C)(ii) of the Act, and then reentered without permission under section 212(a)(9) of the Act, renders him inadmissible. However, such grounds of inadmissibility may be waived pursuant to section 245A(d)(2) of the Act; 8.C.F.R. § 245a.18(c).

Given his failure to credibly document having filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act, and therefore the issuance of an application for waiver of inadmissibility is moot.

Beyond the decision of the director, it must be noted that the applicant indicated on his Form I-817 Application that he has resided in the United States since April 1988. Pursuant to 8 C.F.R. § 245a.11(b), each applicant must demonstrate that he or she entered the United States prior to January 1, 1982. Throughout the application process, the applicant has not presented any evidence of an earlier entry into the United States. As the appeal will be dismissed on the grounds discussed above, this issue need not be examined further.

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