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U.S. Citizenship
and Immigration
Services

LA

FILE:

Office: National Benefits Center

Date: **MAY 20 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.

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 Director, National Benefits Center. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The Director, National Benefits Center, concluded that the record did not establish that the applicant derived class membership status in one of the legalization lawsuits through his wife, or that the applicant had applied in his own right for class membership in a legalization lawsuit prior to October 1, 2000.

On appeal, the applicant reasserted that his application is based on his wife's claim for class membership. The applicant also submitted photocopies of a Form I-687 and a Form for Determination of Class Membership in *CSS vs. Meese*, both of which bear the applicant's signature and the date August 23, 1995.

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.

In the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership in a legalization class-action lawsuit before October 1, 2000. However, the applicant must establish that the family relationship existed at the time the spouse or parent initially attempted to apply for legalization during the original filing period of May 5, 1987 to May 4, 1988. 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 filed a timely application for temporary resident status as a special agricultural worker (SAW) under section 210 of the Immigration and Nationality Act (INA) on February 25, 1988. The application was denied by the Western Service Center on January 31, 1992. The applicant filed an appeal, which was dismissed by the Legalization Appeals Unit (now incorporated into the AAO) on November 21, 2000. An application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits, as required under section 1104(b) of the LIFE Act. Furthermore, the LIFE Act contains no provision allowing for the reopening and reconsideration of an application for temporary resident status as a special agricultural worker under section 210 of the INA.

The record indicates that the applicant's wife, [REDACTED], filed a LIFE application in her own right and was determined to be a class member in *CSS*. The applicant and his wife were not married until January, 25, 1989, however, which was after the requisite time period of May 5, 1987 to May 4, 1988, set forth in the regulation, 8 C.F.R. § 245a.10. Since the marital relationship did not exist during the original filing period for legalization applications in 1987-88, the applicant cannot claim derivative class member status through his wife in this LIFE Act proceeding.

As evidence that he filed a claim for class membership in his own right, the applicant has submitted photocopies of an I-687 form (application for temporary resident status under section 245A of the Immigration and Nationality Act) and a Form for Determination of Class Membership in *CSS vs. Meese*. Both of the documents are signed by the applicant and dated August 23, 1995. However, there is no evidence in the record, such as postal receipts or acknowledgement letters from the agency, that either of these forms

was submitted to the Immigration and Naturalization Service (INS) in August 1995 or any time prior to October 1, 2000, as required to be considered as a timely claim for class membership under section 1104(b) of the LIFE Act. Citizenship and Immigration Services, successor to the INS, has no record of receiving either document before October 1, 2000. In fact, the applicant did not even submit the two documents with his LIFE application (Form I-485) in February 2002. It was not until July 2003, in response to the second Notice of Intent to Deny, that the applicant submitted the two forms. The applicant has not explained why, if he had the two documents at the time he filed his LIFE application, he waited nearly a year and a half to submit them. Based on the foregoing discussion, it is concluded that neither the I-687 form nor the class membership determination form constitutes convincing evidence that the applicant filed a claim for class membership in CSS before October 1, 2000.

For all of the reasons discussed above, the applicant has failed to establish his eligibility for permanent resident status under section 1104 of the LIFE Act.

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