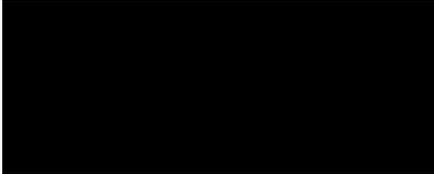


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U.S. Citizenship  
and Immigration  
Services

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*LA*  
MAY 27 2004

FILE:



Office: National Benefits Center

Date:

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:



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, Missouri Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the applicant (1) had not established he had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000 and (2) was inadmissible to the United States under at least one of the provisions of section 212(a) of the Immigration and Nationality Act (“Classes of Aliens Ineligible for Visas or Admission”) because he had been convicted of three or more misdemeanors in the United States.

On appeal counsel asserted that the director erred in holding the applicant ineligible for admission to the United States because of prior misdemeanor convictions in the years 1975-1995 because the applicant can submit waiver applications under section 212(c) of the Immigration and Nationality Act (INA) for convictions in those years. Counsel also asserted that the director erred in finding that there was insufficient evidence of the applicant’s claim for class membership in a legalization lawsuit prior to October 1, 2000. Counsel requested 90 days – until August 2, 2003 – to submit a brief and/or additional evidence in support of the appeal. Up to the date of this decision, however, no brief or additional evidence has been received from counsel or the applicant.

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.

In his LIFE application (Form I-485) the applicant cited CSS as the basis of his eligibility for legalization under the LIFE Act. The record contains no documentary evidence, however, that any such claim for class membership was filed by the applicant before October 1, 2002. In fact, the Immigration and Naturalization Service (now Citizenship and Immigration Services) has no record of receiving any correspondence from the applicant referring to CSS until the instant LIFE application was filed in May 2002. That was long after the deadline of October 1, 2000, set in section 1104(b) of the LIFE Act, to file a claim for class membership in CSS or one of the other legalization lawsuits.

An applicant for permanent resident status under section 1104 of the LIFE Act must also establish that he or she has not been convicted of a felony or of three or more misdemeanors committed in the United States. See section 1104(c)(2)(D)(ii) of the LIFE Act and 8 C.F.R. § 245a.11(d)(1). There is no waiver provision under the LIFE Act for this ground of inadmissibility to the United States. As discussed in the director’s decision and confirmed in the record, the applicant was convicted of at least four misdemeanors in the United States between 1975 and 1993 (including one charge of illegally transporting liquor in 1975 and three charges of driving while intoxicated in 1983, 1985, and 1993). These convictions make the applicant statutorily ineligible for adjustment to permanent resident status under the LIFE Act. In his decision denying the application, the director should have cited section 1104(c)(2)(D)(ii) of the LIFE Act as the basis of the applicant’s ineligibility for adjustment of status, rather than section 212(a) of the INA, because the former provision specifically governs “LIFE legalization” applicants. Counsel’s assertion that the applicant can file a waiver application under section 212(c) of the INA is incorrect because the

governing provision in this proceeding, section 1104(c)(2)(D)(ii) of the LIFE Act, does not allow for any waiver if the applicant has been convicted of three or more misdemeanors.

Thus, the applicant has failed to establish that he filed a written claim for class membership in a legalization lawsuit before October 1, 2000, as required under section 1104(b) of the LIFE Act. Moreover, the applicant is ineligible to adjust status under section 1104(c)(2)(D)(ii) of the LIFE Act in any event because he has been convicted of three or more misdemeanors in the United States.

For the reasons discussed above, 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.