



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]

Office: Milwaukee, Wisconsin

Date: OCT 26 2004

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration and 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 Milwaukee office. 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

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prevent unauthorized
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DISCUSSION: The application for permanent resident status under the Legal Immigration and Family Equity (LIFE) Act was denied by the District Director in Chicago, Illinois. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The district director concluded that the applicant failed to establish that he entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal the applicant submitted some affidavits from individuals who assert that the applicant lived in Long Beach, California between 1981 and 1988, as well as a photocopy of interview notes, dated March 9, 1993, in which the applicant is recorded as stating, under oath, that he entered the United States in 1981 and that he had left the United States just once – from February to May 1985 – since his arrival.

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 record establishes that the applicant filed a timely claim for class membership in CSS.

An applicant for permanent resident status under section 1104 of the LIFE Act must also establish that he or she entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously from then through May 4, 1988. See section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). This “continuous residence” requirement is further specified in 8 C.F.R. § 245a.15(c)(1):

An alien shall be regarded as having resided continuously in the United States if no single absence from the United States has exceeded forty-five (45) days, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to emergent reasons, his or her return to the United States could not be accomplished within the time period allowed.

As the photocopied interview notes submitted on appeal clearly show, when the applicant was interviewed by the Immigration and Naturalization Service (INS) in Los Angeles on March 9, 1993 regarding his CSS class membership claim he stated under oath that he was absent from the United States visiting his grandmother in Mexico from February to May 1995 – roughly three months. That was far in excess of the 45-day limit for any one absence from the United States, as specified in 8 C.F.R. § 245a.15(c)(1). There is no evidence that the applicant was prevented from returning earlier to the United States by any “emergent reasons” – *i.e.*, reasons that were unforeseen and outside the applicant’s control. Thus, the applicant’s three-month stay in Mexico during 1985 interrupted his “continuous residence” in the United States. Therefore, the applicant has failed to establish that he resided in the United States in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B)(i) of the LIFE Act, 8 C.F.R. § 245a.11(b) and 8 C.F.R. § 245a.15(c)(1).

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). Court records show that the applicant was convicted in Long Beach, California on March 15, 1991 of three misdemeanors under the California vehicle code: (a) Count 1, 22350 VC – Driving at an Unsafe Speed, (b) Count 2,

21453(A) VC – Circular Red Signal Shall Stop, and (c) Count 3, 14601.1(A) VC Misd. – Driving with Suspended License. Thus, the record indicates that the applicant has been convicted of three misdemeanors committed in the United States. Under the statutory and regulatory provisions cited above, therefore, the applicant is not admissible to the United States as an immigrant and is ineligible for adjustment to legal permanent resident status. There is no waiver provision under the LIFE Act for this ground of inadmissibility to 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.