



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: Missouri Service Center Date: **OCT 29 2004**

IN RE: Applicant: [REDACTED]

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 office that originally decided your case. 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, and is now before the Administrative Appeals Office (AAO) 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 and, therefore, denied the application.

On appeal, the applicant states that he continues to assert that he filed a timely claim thru the class action lawsuit CSS VS Reno. The applicant asserts that it was filed prior to October 1, 2000 along with a copy of his filed form I-687 under 245a of IRCA. The applicant further states that his Freedom of Information Act (FOIA) request was never sent by "BCIS." The applicant indicates that the director "erroneously mistook evidences" submitted to prove continuous residence as his claim. He indicates that those evidences were solely for the purpose of demonstrating that he was here since 1981 or earlier and that some of the evidences were documents where he had additionally applied under section 210 of the Immigration and Nationality Act.

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.

The applicant failed to submit any documentation addressing this requirement when the application was filed. On rebuttal to a notice of intent to deny dated September 4, 2002, the applicant submits a letter dated September 21, 2002 in which he stated that he filed a CSS vs Reno claim form before Oct. 1, 2000 in the Vermont Service Center but that he never received a response. The applicant also indicated that he filled out, signed and filed a CSS vs. Reno questionnaire before Oct. 1, 2000 and that "all he needs is the proof of filing" with the Citizenship and Immigration Services or CIS (formerly, the Immigration and Naturalization Service or INS or the Service). The applicant further indicated that he had requested that proof through the Freedom of Information Act (FOIA) but that has not arrived. The applicant submitted a copy of a letter from the Immigration and Naturalization Service dated February 4, 2002 signed by the Director of the St Albans, Vermont Service Center relating to his FOIA request.

The applicant timely filed an application for temporary resident status as a special agricultural worker (SAW) under section 210 of the INA on July 8, 1988. That application was subsequently denied. The applicant appealed the denial of his application, and the Legalization Appeals Unit of the Office of Administrative Appeals in Washington, D.C., the AAO's predecessor office, dismissed the appeal on April 27, 1995. An application for SAW status does not constitute an application for class membership in any of the legalization

class-action lawsuits. Furthermore, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a previously filed and denied application for temporary resident status as a special agricultural worker under section 210 of the INA.

None of the documents submitted throughout the application process establish that the applicant filed a timely written claim for class membership prior to October 1, 2000. The applicant claims that this deficiency could be overcome based upon information that he requested through FOIA.

However, the fact that the applicant may have an outstanding FOIA request with CIS has no bearing in this case because section 1104(c)(2)(B)(i) of the LIFE Act provides that each applicant for permanent resident status must establish that he or she entered and commenced residing in the United States *prior to January 1, 1982*. On the applicant's G-325A Biographic Information Form dated September 20, 2002, he stated that he resided abroad from June 1940 in Jalisco, Mexico and that he first entered the United States in 1985. Given this person's inability to meet this requirement, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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