



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: National Benefits Center

Date:

SEP 07 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:

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

~~DUPLICATE COPY~~

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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 directors concluded that the record did not establish that the applicant applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000.

On appeal the applicant asserts that sometime in the late 1990s, acting on the advice of the Immigration and Naturalization Service (INS) to apply for class membership in the *LULAC* class-action lawsuit, *infra*, he took his application to an INS office in Miami which refused to accept it on the erroneous ground that the applicant was a permanent resident already.

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 record shows that the applicant filed a Form I-687, Application for Status as a Temporary Resident, on May 4, 1988, as the first step in seeking legalization under section 245A of the Immigration and Nationality Act (INA). Section 245A was added to the INA by the Immigration Reform and Control Act of 1986 (IRCA). The I-687 application was denied by the Southern Regional Processing Facility on January 18, 1990, for failure of the applicant to establish that he resided continuously in the United States from before January 1, 1982 to October 30, 1986. Thus, the applicant failed to establish that he resided in the United States in an unlawful status continuously from before January 1, 1982 until the date his I-687 application was filed in 1988, as required in the Act and its implementing regulations. See 8 C.F.R. § 245a.2(b).

There is no provision in the LIFE Act which authorizes the reopening or reconsideration of applications previously denied under IRCA. Nor does the applicant's prior IRCA application constitute a claim for class membership in one of the subsequent legalization class-action lawsuits, *CSS*, *LULAC*, or *Zambrano*. An alien must have filed a claim for class membership in one of those three lawsuits before October 1, 2000 to be eligible for permanent resident status under section 1104(b) of the LIFE Act, which was enacted on December 21, 2000. The AAO cannot gauge the veracity of the applicant's assertion that the INS refused to accept his *LULAC* class membership claim in the late 1990s. The record is clear, however, that there was no claim for class membership claim in the applicant's A-file, or even a reference to *LULAC*, at the time the instant LIFE application (Form I-485) was filed on July 13, 2001. That was well after the statutory deadline of October 1, 2000 to file a claim for class membership in one of the legalization lawsuits. Thus, the record fails to establish that the applicant filed a written claim for class membership in *LULAC* before October 1, 2000, as required under section 1104(b) the LIFE Act.

An applicant for permanent resident status under section 1104 of the LIFE Act must also establish that he or she resided continuously in the United States from before January 1, 1982 through May 4, 1988. See section 1104(c)(2)(B)(i) of the LIFE Act. As specified in section 245A(g)(2)(B)(i) of the INA, however, "an alien shall not be considered to have resided continuously in the United States, if, during any period for which

continuous residence is required, the alien was outside the United States as a result of a departure under an order of deportation." In the I-687 application he filed for temporary resident status in May 1988 the applicant stated that he was absent from the United States from August 1982 until November 1982, and back in his native Honduras, because the "INS deported me." Therefore, even if the applicant could establish that he filed a timely claim for class membership in *LULAC*, he is statutorily barred under section 245A(g)(2)(B)(i) of the INA from fulfilling the continuous U.S. residence requirement of the LIFE Act.

For the reasons discussed above, the applicant is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

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