



U.S. Citizenship
and Immigration
Services

22

[REDACTED]

FILE:

[REDACTED]

Office: Houston, Texas

Date:

SEP 01 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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the Houston District 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

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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

The director concluded that the applicant was ineligible to adjust status under section 1104 of the LIFE Act because he had been convicted of a felony and two misdemeanors in Harris County, Texas. The director cited a regulatory provision, 8 C.F.R. § 245a.18(a)(1), which provides that “[a]n alien who has been convicted of a felony or of three or [more] misdemeanors committed in the United States is ineligible for adjustment to legal permanent resident status under [the LIFE Act].”

On appeal the applicant asserts that his case was denied in error because “under the settlement agreement of Proyecto San Pablo a person can be deported previously and still be eligible for LIFE Act benefits.”

An applicant 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 indicates that the applicant filed a timely claim for class membership in CSS.

However, 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, 8 C.F.R. § 245a.11(d)(1) and 8 C.F.R. § 245a.18(a)(1). Court records show that the applicant was convicted in Harris County, Texas, of two misdemeanors (driving while intoxicated) in 1992 and 1993, followed by a felony conviction (third offense of driving while intoxicated) in 1994. That third conviction makes the applicant ineligible, under the statutory and regulatory provisions cited above, 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. The record also indicates that the applicant was convicted a fourth time for driving while intoxicated in the spring of 2000 and was sentenced to two years in a Texas state prison.

Thus, 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.