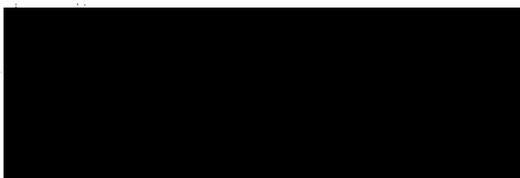


PUBLIC COPY Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



L2

FILE:



Office: NATIONAL BENEFITS CENTER

Date: **SEP 02 2004**

IN RE:

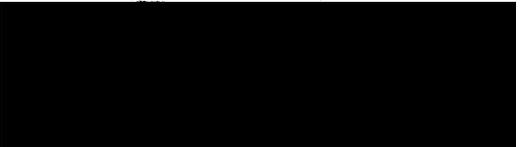
Applicant:



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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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, National Benefits Center, reopened, and denied again by the Director, National Benefits Center. The appeal is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The directors 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 from the initial Notice of Decision, the applicant asserts "I have been in this country since 1986." The applicant requested that his application be reconsidered. The applicant submitted copies of affidavits that were previously provided.

Neither counsel nor the applicant has addressed the subsequent Notice of Decision nor provided any evidence to overcome the director's findings.

An applicant for permanent resident status under 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 any 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 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.

Along with his LIFE Application, the applicant submitted a copy of his Ecuadorian passport and several affidavits from acquaintances that attested to the applicant's residence in the United States since 1986.

In response to the initial Notice of Intent to Deny issued on August 26, 2002, the applicant submitted additional affidavits from the same acquaintances along with new affidavits from other acquaintances all attesting to the applicant's residence in the United States since 1986.

As previously mentioned by the director in his initial Notice of Decision, the affidavits may serve to establish the applicant's residence in the United States since 1986, but they do not establish that the applicant filed a timely written claim for class membership prior to October 1, 2000.

In response to the subsequent Notice of Intent to Deny issued on July 31, 2003, counsel asserted that the applicant first attempted to file an application under section 245 of the Immigration and Nationality Act during the amnesty program, but was rejected and discouraged to apply. Counsel further asserted that the applicant subsequently applied under the *CSS/LULAC vs. INS* lawsuit and was informed by the New York Office that he would receive an appointment date in the mail, which never came.

The fact that the applicant did not submit either the original Form I-687 Application or corresponding money order, which were purportedly rejected by the legacy Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), only serves to undermine the credibility of his claim to have attempted to submit such application. As previously mentioned by the director in his Notice of Decision, the documents submitted with the applicant's LIFE application may serve as evidence of the applicant's identity and residence, but they do not establish that a timely written claim for class membership was filed prior to October 1, 2000.

Though counsel asserted that the applicant applied for class membership in CSS prior to October 2000, no documentary evidence thereof was submitted and there is no record at CIS, which demonstrate that the applicant applied for class membership.

Given his failure to credibly document having filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

Beyond the decision of the director, it is noted that the applicant indicated on appeal that he has been in the United States since 1986. Pursuant to 8 C.F.R. § 245a.11(b), each applicant must demonstrate that he or she entered the United States prior to January 1, 1982. Throughout the application process, the applicant has not presented any evidence of an earlier entry into the United States. As the appeal will be dismissed on the grounds discussed above, this issue need not be examined further.

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