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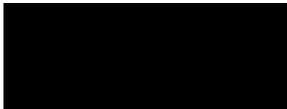


U.S. Citizenship
and Immigration
Services



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:

Self-represented

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, 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 presents an additional copy of a Form I-700 application along with a copy of his Form I-688A and social security card.

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. In the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership in a legalization class-action lawsuit before October 1, 2000. 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, and in response to the Notice of Intent to Deny issued on December 16, 2002, the applicant submitted a copy of his Form I-700 Application for Temporary Resident Status as Special Agricultural Worker (SAW) under section 210 of the Immigration and Nationality Act (the Act) along with photocopied documents relating to the denial and subsequent appeal of said application. The applicant also submitted documentation to establish his residency, employment, and identity in the United States.

The record reflects that the applicant did in fact attempt to file a Form I-687 Application for Temporary Resident Status under section 245A of the Act in November 1987; however, the application was returned to the applicant and he was encouraged to file a Form I-700 application. The applicant timely filed a Form I-700 application on July 21, 1988, and the application was denied March 1, 1991. The applicant's appeal to the denial of his application was dismissed by the AAO on January 10, 2003. 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 timely filed and previously denied application for temporary resident status as a SAW under section 210 of the Act.

The legalization class-action lawsuits mentioned above relate to aliens who claim they did not file Form I-687 applications in the 1987-1988 period because they were improperly dissuaded by the legacy Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS).

The applicant has failed to submit any evidence to establish that he attempted to file a subsequent Form I-687 application or to establish that he filed a timely written claim for class membership. Also, there are no records within CIS, which demonstrate that the applicant applied for class membership.

As previously mentioned in the director's Notice of Decision, the documentation submitted throughout the application process may establish the applicant's identity, employment and residency, but they do not serve as evidence of a claim to class membership.

It is noted that an attempt to determine if the applicant may be eligible for the benefit being sought as a derivative beneficiary, the director reviewed CIS records, but was unable to establish any record that the applicant's spouse had filed a timely written claim to class membership.

Given the applicant's failure to even claim, much less document, that he filed a timely written claim for class membership, 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.