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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services



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, Missouri Service Center, reopened, and denied again by the Director, National Benefits Center. The matter 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, the applicant asserts he is eligible for permanent resident status under the LIFE Act, and makes reference to having submitted documentation relating to a prior application for temporary residence as a special agricultural worker. The applicant submitted copies of documents that were previously provided.

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.

Furthermore, under section 1104(c)(2)(B)(i) of the LIFE Act 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, however, the applicant indicated that he resided in his native Bangladesh from February 1961 until July 1985. Given the applicant's inability to meet the statutory requirement of residence in the United States since before January 1, 1982, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

Accordingly, the issue of whether the applicant applied for class membership in the *CSS-LULAC* lawsuit is moot. Nevertheless, give the nature of the documentation the applicant submitted on this issue, some discussion is warranted.

Along with his LIFE application, the applicant provided a Form I-693, Medical Examination of Aliens Seeking Adjustment of Status, affidavits from an acquaintance and a landlord attesting to the applicant's residence in the United States, a copy of his passport, and a statement from the Consulate General of Bangladesh regarding the authenticity of the applicant's passport. The applicant also provided the following

- 1) a notice dated November 18, 1988 from the New York City Office acknowledging receipt of a Form I-700 Application for Temporary Resident Status as a Special Agricultural Worker (SAW) under section 210 of the Immigration and Nationality Act (the Act);
- 2) rejection notices dated March 1, 1996 and May 20, 1996 from the Vermont Service Center indicating that the motion and corresponding fee submitted were being returned as regulations did not allow for the filing of a motion on Legalization cases filed under section 245a or 210 of the Act;
- 3) a notice dated June 4, 2001 from the Texas Service Center acknowledging receipt of a fingerprint fee;
- 4) a rejection notice dated February 22, 2002, regarding the applicant's failure to submit the correct fee for his Form I-485 application; and

However, while such documents could possibly be considered as evidence of having made a written claim for class membership, none of these submissions include a Citizenship and Immigration Services (CIS) Alien Registration Number (A-number, or file number) for the applicant, as required in 8 C.F.R. § 245.14(b).

Furthermore, there is no record of CIS generating the notices listed above or receiving the SAW application allegedly submitted by the applicant. Clearly, the applicant did not file the SAW application. If he had, a file would have been created at that point. As he did not file this application, he could not have filed a motion to reopen on the application. Nevertheless, an application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits.

It must be noted that the applicant has provided contradicting statements for which no explanation has been provided. In the letter dated September 1, 2002, the applicant asserted:

All my papers and documents related to my "primary attempt" for filing for legalization (under CSS category) dated 10/28/1087 [sic] are not in my possession at this moment. I am in utmost level of effort to retrieve those papers and documents from my lawyer...

In a statement notarized on October 20, 2002, the applicant asserted that an attorney whose law office was situated in the World Trade Center previously represented him and "I handed over all of my documents" to the attorney. The applicant claimed that "the few documents which belonged to me were enclosed with my original Life Legalization Application in support of my claim for Class Membership."

On appeal, the applicant claims that "unfortunately the documents in support of my claim for adjustment of status as a Class Member in CSS/LULAC are not in my possession as those were give to one lawyer a couple of years ago." The applicant further claims that the attorney is now deceased and "I am in utmost level of efforts to retrieve those documents."

However, in response to a Notice of Intent to Deny issued on August 26, 2002, the applicant submitted a copy of a Form I-687 Application for status as a Temporary Resident under section 245A of the Act, which was purportedly signed by the applicant on January 28, 1987, and a copy of a Legalization Front-Desking Questionnaire allegedly signed by the applicant on May 10, 1993.

As previously mentioned by the director in his Notice of Decision, there is no record that the Form I-687 application or the Legalization Questionnaire were ever presented to or received by CIS.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

In response to a Notice of Intent to Deny issued on August 1, 2003, the applicant submitted: 1) a Form I-797, Notice of Action dated March 4, 2002, acknowledging the receipt of the applicant's Form I-485 application; 2) a copy of his birth certificate; 3) a death certificate pertaining to his father.; 4) a copy of an interview notice dated June 4, 1993, purportedly issued by the New York City Office, indicating that an interview had been scheduled on September 8, 1993 to determine class membership; and 5) affidavits from acquaintances attesting to the applicant's residence in the United States.

In response to the subsequent Notice of Decision, the applicant submits a Form I-797, Notice of Action, dated November 18, 1991 acknowledging the receipt of a Form I-687 application and Form I-690 waiver request.

While the affidavits from the acquaintances submitted throughout the application process may attempt to serve as evidence of the applicant's residency, they do not establish that the applicant filed a timely written claim for class membership prior to October 1, 2000. The notices fail to include a CIS Alien Registration Number (A-number, or file number) for the applicant, as required in 8 C.F.R. § 245.14(b), and there is no record of CIS generating the

notices. In fact, no CIS file relating to the applicant existed prior to his having filed the current LIFE application.

It is further noted that the applicant is one of many aliens residing in New York City who have furnished such questionable photocopied documents with their LIFE applications. None of these applicants had pre-existing files with CIS prior to filing their LIFE applications, in spite of the fact that they all claim to have previously filed numerous applications or questionnaires with CIS. In addition, despite the absence in these files of any Form G-28, Notice of Entry of Representation, the statements on appeal from these aliens are nearly identical in language and content. These factors raise even more serious questions regarding the authenticity of the applications and supporting documentation.

It is concluded that the photocopies that the applicant has submitted do not establish that he actually made a written claim for class membership.

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