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U.S. Citizenship  
and Immigration  
Services



FILE:



Office: Phoenix

Date:

SEP 09 2004

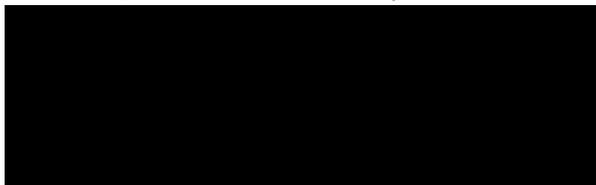
IN RE:

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. 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

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

The district 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. He also noted the applicant's felony convictions, and denied the application for these reasons.

On appeal, counsel states that the Form I-687, Application for Status as a Temporary Resident, a photocopy of Form I-689 evidencing receipt of his legalization application, and a photocopy of his Employment Authorization card serve as proof of the applicant's written claim for class membership in one of the requisite cases. Counsel further states that the fact that the applicant filed his legalization application is statutorily sufficient to establish his class membership in the CSS, LULAC, or Zambrano cases. Counsel argues that Mr. Carillo's expunged felony convictions should not form a basis for denying his application for permanent residency.

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that he or she before October 1, 2000 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.

It is noted that counsel asserts that the filing of a Form I-687 in 1988 constitutes registration for class membership under the regulations at 8 C.F.R. 245a.14. That regulation does mention that the Form I-687 may be presented as proof of registration, but the evidence is limited to Forms I-687 submitted *with* class membership applications. See 8 C.F.R. 245a.14(d)(6). In this case, the applicant's Form I-687 was clearly a part of his legalization application that was considered, denied, and not submitted with a class membership application. Additionally, counsel states that a photocopy of the applicant's employment authorization card serves as proof of the applicant's written claim for class membership. The employment authorization card cited by counsel was issued as a result of the applicant's original legalization application and not because he had registered for class membership in one of the legalization class-action lawsuits. Therefore, the employment authorization card does not establish the applicant's claim for class membership.

The record shows that the applicant filed a Form I-687, Application for Status as a Temporary Resident, on January 8, 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 Director, Western Service Center in Laguna Niguel, California, on June

10, 1993 because of the applicant's criminal convictions. The applicant filed an appeal, which was dismissed by the Legalization Appeals Unit of the Office of Administrative Appeals in Washington, D.C., the AAO's predecessor office, on June 28, 2000.

There is no provision in the LIFE Act that 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 applicant did not assert in his LIFE application (Form I-485), nor has he submitted any documentary evidence, that he filed a claim for class membership in one of the legalization class-action lawsuits. All of the documentation submitted by the applicant in this proceeding relates to his earlier legalization application (Form I-687) under IRCA. Since the applicant had a pre-existing A-file from his IRCA application, any written claim for class membership in *CSS*, *LULAC*, or *Zambrano* would almost certainly have been incorporated in the file. There was no such class membership claim in the applicant's file, or even a reference to any of the legalization class-action lawsuits, at the time the instant LIFE application was filed on June 7, 2002.

In this case, the applicant has failed to establish that he filed a written claim for class membership in one of the legalization class-action lawsuits, *CSS*, *LULAC* or *Zambrano*, before October 1, 2000, as required for him to be eligible for legalization under section 1104(b) the LIFE Act. Accordingly, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

Furthermore, the applicant was convicted of the felony offenses of driving under the influence of alcohol or drugs while his operator's license was revoked on October 31, 1984 and a third offense of driving under the influence of alcohol or drugs on February 1, 1988. Pursuant to 8 C.F.R. § 245a.18(a), an alien is ineligible for adjustment of status under the late legalization provisions of the LIFE Act if he has been convicted of a felony committed in the United States. Thus, the applicant is ineligible on this basis as well.

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