



U.S. Citizenship
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FILE:  Office: NATIONAL BENEFITS CENTER Date:

AUG 23 2005

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 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. The director also concluded that the applicant was inadmissible to the United States due to his criminal history. Accordingly, the director denied the application.

On appeal, the applicant asserts that he has been residing in the United States for a long period of time and, therefore, requests that his application under the benefit being sought be reconsidered.

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 photocopies of : 1) an incomplete copy of a Form I-687 Application for Status as a Temporary Resident neither signed nor dated; 2) a Legalization Questionnaire dated August 15, 1999; and 3) a Form for Determination of Class Membership with an illegible date.

The director, in his Notice of Intent to Deny dated August 7, 2003, informed the applicant that his LIFE application contained no evidence that he filed a timely written claim to class membership. The applicant was also informed that there was no record that the Class Membership Form and Legalization Questionnaire were ever filed or were ever received by the legacy Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS). Furthermore, CIS has no record of the applicant attempting to or filing a Form I-687 application.

The applicant was given an opportunity to submit a rebuttal to the adverse evidence; however, the applicant has not provided any documentation regarding that point on rebuttal or on appeal. Given his 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.

The regulation at 8 C.F.R. § 245a.18(a) states in part that an alien who has been convicted of a felony or three or more misdemeanors committed in the United States is ineligible for adjustment to legal permanent residence status.

"Misdemeanor" means a crime committed in the United States, either (1) punishable by imprisonment for a term of one year or less, regardless of the term such alien actually served, if any, or (2) a crime treated as a misdemeanor under the term "felony," pursuant to 8 C.F.R. § 245a.1(p). For purposes of this definition, any crime punishable by imprisonment for a maximum term of five days or less shall not be considered a misdemeanor. 8 C.F.R. § 245a.1(o).

The record reflects the applicant's criminal history in the State of Illinois:

1. On October 7, 1994, the applicant was arrested by the Chicago Police Department for battery/domestic, a Class A misdemeanor. Case no. [REDACTED]
2. On June 11, 1995, the applicant was arrested by the Chicago Police Department for battery, a Class A misdemeanor. Case no. [REDACTED]
3. On July 22, 1995, the applicant was arrested by the Chicago Police Department for assault, a Class C misdemeanor. Case no. [REDACTED]
4. On October 3, 1995, the applicant was arrested by the Chicago Police Department for driving under the influence, a misdemeanor.
5. On January 21, 1996, the applicant was arrested by the Chicago Police Department for battery/domestic, a Class A misdemeanor. Case no. [REDACTED]
6. On May 2, 1996, the applicant was arrested by the Chicago Police Department for driving under the influence of alcohol, 2nd arrest, driving with .10 percent or more alcohol in the blood, transporting/carrying alcohol while driving, driving with a suspended license, and driving under the influence with a warrant. [REDACTED]
7. On September 10, 1996, the applicant was arrested by the Chicago Police Department for battery/domestic, and driving with .10 percent or more alcohol in the blood, both misdemeanors.

The applicant was requested to submit the final court disposition for each arrest. The applicant, in response, provided the court dispositions for numbers one, two, three and five, which were all dismissed. The applicant also submitted a police report from the Chicago Police Department, which revealed his arrest for number four. The applicant, however, has failed to submit the final court dispositions for numbers four, six and seven. The applicant has the burden to establish, with **affirmative** evidence that outstanding charges or arrests did not result in a conviction.

An alien applying for adjustment of status under the provisions of section 1140 of the LIFE Act has the burden of proving by a preponderance of evidence that he is admissible to the United States under the provisions of section 212(a) of the INA, and is otherwise eligible for adjustment of status. 8 C.F.R. § 245a.11. The applicant has failed to meet this burden

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