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U.S. Citizenship
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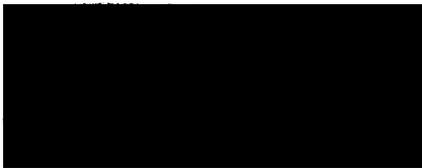


FILE: [REDACTED] Office: NATIONAL BENEFITS CENTER Date: AUG 24 2005

IN RE: Applicant: [REDACTED]

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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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, counsel argues that Citizenship and Immigration Services (CIS) erred in its strict application of the documents that can be considered to be a written application for class membership under the class-action lawsuits. Counsel further argues that CIS did not follow its prior precedent in the instant case, which determined that the applicant had fallen out of status upon his reentry to the United States via Canada without inspection. Counsel asserted that a brief and/or evidence would be submitted to the AAO within 30 days. However, more than a year later, no correspondence has been submitted.

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.

The record reflects that the applicant timely filed a Form I-687 Application for Status as a Temporary Resident under section 245A of the Immigration and Nationality Act (the Act). The Form I-687 application was approved on March 16, 1990. The applicant's Form I-698 Application to Adjust from Temporary to Permanent Resident was denied on September 21, 1994 as he had failed to file this application within forty-three months of being granted temporary residence. Section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of the matter, as the original application for temporary resident status under section 245A of the Act had been filed by the applicant in a timely manner. The legalization class-action lawsuits mentioned above relate to aliens who claim they did **not** file applications in the 1987-1988 period because they were improperly dissuaded by CIS.

In response to the Notice of Intent to Deny dated August 5, 2003, the applicant claimed in part:

... I was repeatedly informed both while my application was pending and after it was denied that I was not eligible for any other relief and there were no forms that I could file to benefit my immigration status in the United States.

The applicant asserted that between 1985 and October 1, 2000, he filed multiple I-765s, "including one that would qualify me for class membership..." The applicant further asserted that in March or April 1992, he visited the Chicago Office and the immigration officer "refused to supply me with any forms and did not provide me with any information about pending class actions for legalization benefits."

As mentioned above, the class-action lawsuits pertained to individuals who did **not** file applications in 1987 and 1988 because they were improperly dissuaded. As the applicant did file an application and it was still pending in 1992, there was no need for the immigration officer to provide the applicant with any information regarding any of the class actions lawsuits. The record reflects only two employment authorization forms were received by CIS; the first on November 14, 1989 for his Form I-687 application, and the second on May 29, 2003 for his H-1,

temporary worker permit. Finally, the applicant's contention that he was not timely notified of the denial of his legalization claim is unfounded. The record reflects that the Notice of Denial was sent to the applicant's counsel at the time. CIS is not responsible for any alleged inaction of applicant's former counsel.

Submission of a timely filed Form I-687 application that was accepted and subsequently granted by the legacy Immigration and Naturalization Service does not constitute a timely written claim to class membership. No evidence has been presented which would suggest that the applicant had attempted to file a subsequent Form I-687 Application. The applicant has not provided any documents, which would 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 such, 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.