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U.S. Citizenship
and Immigration
Services

22

FILE:



Office: NATIONAL BENEFITS CENTER

Date: **JAN 06 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. The file has 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 Director, Missouri Service 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 reiterates his contention that he filed a written claim to class membership in a legalization class-action lawsuit prior to October 1, 2000. The applicant submits documentation in support of his appeal.

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. The regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

The applicant neither claimed nor documented that he filed a written claim to class membership in one of the requisite legalization class action lawsuits with his Form I-485 LIFE Act application. Rather, with his LIFE application, the applicant included photocopies of his previously submitted Form I-700, Application for Temporary Resident Status as a Special Agricultural Worker (SAW) under Section 210 of the Immigration and Nationality Act (INA), and related documents. The record shows that the Form I-700 special agricultural worker application was timely filed with the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) on October 20, 1987. This special agricultural worker application was ultimately denied on April 4, 1990. The applicant appealed this denial of the special agricultural worker application and this appeal was dismissed by the AAO on April 26, 1993. 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 special agricultural worker under section 210 of the INA.

In response to the notice of intent to deny issued on June 27, 2002, the applicant submitted a statement in which he contended that he was a class member in one of the requisite legalization class-action lawsuits. In support of his contention, submitted a photocopy of a completed Form I-687, Application for Temporary Resident Status (legalization) under Section 245A of the INA, that is dated March 2, 1988. The applicant also submitted documentation relating to his previously discussed Form I-700 special agricultural worker application.

The photocopied Form I-687 legalization application such as that provided by the applicant may be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. § 245a.14(d). Although this document is dated prior to October 1, 2000, the statutory deadline for the filing of written claims for class membership in a legalization class-action action under section 1104 of the LIFE Act, the applicant has not provided any independent evidence that would tend to corroborate his claim that the Form I-687 application was

submitted to the Service or its successor CIS prior to his response to the notice of intent to deny in the current proceedings. Moreover, the applicant offered no explanation as to *why*, if he truly had this document referencing his purported claim to class membership in his possession since at least March 2, 1988, he did not submit this document with his LIFE Act application. Applicants were instructed to provide qualifying evidence *with* their applications and the applicant did include other supporting documentation with his LIFE Act application.

On appeal, the applicant claims that he attempted to apply for legalization in March of 1988, but was turned away after being informed by an employee of the Service that he was not eligible because of a brief departure from the United States. In support of his claim, the applicant submitted two affidavits signed by individual with an illegible signature and [REDACTED] respectively. However, it must be noted that the applicant's claim that he had been front-desked (informed that he was not eligible for temporary residence) is the first instance that a claim such circumstances occurred has been put forth in these proceedings. Even if the applicant had been front-desked (informed that he was not eligible for temporary residence) when he attempted to file a legalization application during the original application period in March 1988, this action alone does not equate to having filed a written claim for class membership in any of the requisite legalization class-action lawsuits.

The factors cited above raise serious questions regarding the authenticity and credibility of the supporting documentation, as well as the applicant's claim that he filed for class membership. Given these circumstances, it is concluded that the photocopied document provided by the applicant in support of his claim to class membership is of questionable probative value.

Doubt cast on any aspect of the evidence 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. *See Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

The applicant has failed to submit documentation that credibly establishes his having filed a timely written claim for class membership in one of the aforementioned legalization class-action lawsuits. Accordingly, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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