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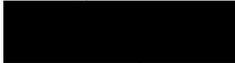
U.S. Citizenship
and Immigration
Services

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FILE:



Office: NATIONAL BENEFITS CENTER

Date: **JAN 14 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 your case 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 initially denied by the Director, Missouri Service Center. The matter was subsequently reopened and denied again by the Director, National Benefits Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The Missouri Service Center director concluded the applicant had abandoned her application for permanent residence by failing to respond to a request for additional supporting documentation within the requisite time and, therefore, denied the application.

On appeal from the initial denial, the applicant states that she has submitted documentation establishing prima facie evidence that she had requested class membership. According to the applicant, she has not received any specifics on why she is being denied or what part of her documentation is not acceptable. The applicant requests that her application be given further consideration.

The National Benefits Center Director subsequently reopened the matter after the applicant had filed her appeal. The director concluded the applicant had not established that she had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application. In addition, the director determined that the applicant was ineligible to adjust to permanent residence pursuant to 8 C.F.R. § 245a.18, because she had been found inadmissible under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (INA) after she presented a fraudulent immigration document to procure admission to the United States.

The record shows that subsequent to the reopening of the case, the applicant was afforded the opportunity to submit additional material to supplement the appeal. However, as of the date of this decision, the applicant has failed to submit any additional material in support of the appeal. Therefore, the record shall be considered complete.

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 or she has continuously resided in an unlawful status in the United States from January 1, 1982 to May 4, 1988, 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 and, therefore, is ineligible for permanent resident status under section 1104 of the LIFE Act on this basis as well.

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.

On her Form I-485 LIFE application, the applicant indicated that she was eligible to adjust to permanent residence under the provisions of the LIFE Act because she had attempted to file a legalization application for temporary residence under section 245A of the INA, but was told that she was not eligible by an employee of the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or

CIS). While the applicant may have been front-desked (informed that he was not eligible for temporary residence) when she attempted to file a legalization application in the original application period from May 5, 1987 to May 4, 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. Although the applicant also indicated that she was a class member of the "CSS V. Meese" class-action lawsuit on the Form I-485 LIFE Act application, she has failed to provide any evidence that she filed a written claim to class membership in any of the requisite legalization lawsuits prior to October 1, 2000. Furthermore, the record contains no evidence that the applicant asserted a claim to class membership to the Service or its successor CIS prior to the filing of the applicant's LIFE Act application on March 19, 2003.

On appeal, the applicant claims that she provided documentation reflecting her claim to class membership but has not been given any specifics as to why her application was denied. Contrary to the applicant's claim, there is nothing in the record to indicate that she filed an actual claim for class membership. Furthermore, subsequent to the reopening of her case the applicant was sent, and apparently received, a Notice of Decision, which described in detail why the application was being denied. In this decision, the director stated that a review of all CIS records failed to disclose any indication of the applicant having made a written claim for class membership. Therefore, the applicant's claim on appeal is not compelling.

The record shows that the applicant was detained by the Service on May 10, 1998, when she attempted to enter the United States utilizing a fraudulent immigration document to procure admission. The record contains a Form I-860, Notice and Order of Expedited Removal, dated May 10, 1998, which reflects that the applicant was found inadmissible pursuant to section 212(a)(6)(C)(i) of the INA, because she presented a fraudulent document to procure admission to the United States. However, the specific ground of inadmissibility cited by the National Benefits Center director may be waived pursuant to section 212(i) of the INA. The record contains no evidence that the National Benefits Center director either informed the applicant that such waiver was available or that an attempt was made to solicit a Form I-601, Application for Waiver of Grounds of Inadmissibility. As the applicant remains ineligible for adjustment to permanent residence under the provisions of the LIFE Act for the reasons put forth above, the issue of her inadmissibility need not be discussed further.

The record reflects all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership. Such check included a separate file, [REDACTED] Record of Deportable/Inadmissible Alien, which has been consolidated into the current record of proceedings. Given her failure to document that she timely filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

An applicant for permanent resident status under the provisions of LIFE Act must establish that he or she is admissible to the United States as an immigrant, except as otherwise provided under section 245A(d)(2) of the INA. Section 1140(c)(2)(D)(i) of the LIFE ACT.

The record shows that the applicant was detained by the Service on May 10, 1998, when she attempted to enter the United States utilizing a fraudulent immigration document to procure admission. The record contains a Form I-860, Notice and Order of Expedited Removal, dated May 10, 1998, which reflects that the applicant was found inadmissible pursuant to section 212(a)(6)(C)(i) of the INA, because she presented a fraudulent document to procure admission to the United States.

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 or she has continuously resided in an unlawful status in the United States from January 1, 1982 to May 4, 1988, 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 and, therefore, is ineligible for permanent resident status under section 1104 of the LIFE Act on this basis as well.

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