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U.S. Citizenship
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Services

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FILE: MSC 02 250 61719

Office: NATIONAL BENEFITS CENTER

Date: **JUL 08 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 (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 asserts he is eligible for permanent resident status under the LIFE Act because "I have been residing continuously in the United States since June 1, 1985."

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 documents to establish his identity and residence in the United States. The applicant also provided copies of the legacy Immigration and Naturalization Service, now Immigration and Customs Enforcement documents pertaining to his removal proceedings in 1997. As previously mentioned by the director in his Notice of Decision, these documents do not constitute that the applicant filed a timely written claim to class membership prior to October 1, 2000.

A review of the record reveals the following:

At the time the applicant filed his LIFE application, he submitted a statement dated May 29, 2002 asserting, "I have been residing in the United States since June 1, 1985." The applicant also stated, "please be advised that I am not applying under the three lawsuits mentioned above."

A review of the transcript of hearing dated February 2, 1998, regarding the applicant's removal proceedings, the applicant informed the immigration judge that he first arrived in the United States in May 1985.

In response to the Notice of Decision dated March 14, 2003, which denied the applicant's employment authorization, the applicant once again stated "I am not applying under any of the law suits mentioned above. I qualify to become a Lawful Permanent Resident because of my continuous residence in the United States since June 1, 2005."

In order to qualify for the benefit being sought, an individual must first meet the criterion of an *eligible alien*. An eligible alien is one who claimed to have attempted to file or was discourage from filing an application for legalization during the requisite period of May 1, 1987 through May 1, 1988 and who before October 1, 2000 filed a written claim for class membership with the Attorney General pursuant to a court order issued in the case of the three class-action lawsuits. See 8 C.F.R. § 245a.10. The applicant has failed to meet this criterion as he has stated on two occasions that "I am not applying under the three lawsuits mentioned."

Further, an eligible alien "may adjust status" to legal permanent resident status, if he established entry into the

United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988 pursuant 8 C.F.R. § 245a.11(b) *and* was continuously physically present in the United States between November 6, 1986 and May 4, 1988, as required under 8 C.F.R. § 245a.11(c).

While the applicant has provided evidence to establish his physical presence in the United since 1985, he has failed to meet the criterion of continuous residence since before January 1, 1982 through May 4, 1988.

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.

Finally, it appears from the applicant's statements, he is attempting to claim eligibility pursuant to the requirements of a seasonal agricultural worker (SAW). However, a review of the record reveals that the applicant timely filed an application for temporary resident status as a SAW under section 210 of the Immigration and Nationality Act on September 23, 1987, and the application was denied January 18, 1991. The applicant's appeal to the denial of his application was dismissed by the AAO on June 11, 1997. 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 SAW under section 210 of the Act.

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