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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

22

FILE:



Office: NATIONAL BENEFITS CENTER

Date: MAR 04 2005

IN RE:

Applicant:



PETITION: 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. 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.

A handwritten signature in black ink, 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, the applicant claims to have sent a request for class membership to the Washington, D.C. office of the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services, or CIS) on December 12, 1999, but that he never received a response. In addition, the applicant indicates that he qualifies for LIFE legalization because attempted to file a legalization application during the initial application period from May 5, 1987 to May 4, 1988, but was told that he did not qualify.

Although a Notice of Entry of Appearance as Attorney or Representative (Form G-28) has been submitted, the individual is not authorized under 8 C.F.R. § 292.1 or § 292.2 to represent the applicant. Therefore, this decision will be furnished to the applicant only.

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.

Along with his Form I-485 LIFE Act application, the applicant provided the following:

- a Form I-687, Application for Status as Temporary Resident under Section 245A of the Immigration and Nationality Act, that is signed by both the applicant and the individual who prepared the application and dated March 7, 1988;
- a Legalization Questionnaire dated December 12, 1999;
- a one-page fact-sheet entitled "CSS v. RENO;" and
- an undated *affidavit* in which the applicant describes his attempts to apply for legalization during the actual filing period of May 5, 1987 to May 4, 1988.

The one-page "CSS v. Reno" fact sheet submitted by the applicant was issued by the Service in order to provide information and guidance regarding the ramifications of the CSS legalization class-action lawsuit. The submission of this instructional leaflet does *not* establish that the applicant has filed a timely claim for class membership.

The Legalization Questionnaire bears the applicant's "live" signature in ink. Thus, this is an original document and not a photocopy of what the applicant is apparently claiming he had submitted prior to October 1, 2000. That is, if the applicant had actually submitted this document prior to October 1, 2000, it would be in the possession of CIS, and the applicant could only have a photocopy of what he had submitted to now present in this LIFE proceeding.

The Form I-687 application was purportedly completed March 7, 1988. This date would have been well within the May 5, 1987 to May 4, 1988 application period for applying for temporary residence (legalization) under the Immigration Reform and Control Act (IRCA). While this photocopied application might serve as evidence of being "front-desked" or otherwise discouraged or prevented from applying for legalization under section 245A of the Immigration and Nationality Act (INA), it does *not* constitute an application for class membership under any of the aforementioned class-action lawsuits.

On appeal, the applicant asserts that he filed a Legalization Questionnaire with the Service's Washington D.C. office on December 12, 1999, but that he never received a response. However, the applicant failed to provide independent evidence such as postal receipts and either acknowledgement letters or receipt notices from the Service that would demonstrate that such document had been filed on this date. In addition, had the applicant actually filed a Legalization Questionnaire with CIS on December 12, 1999, as claimed, a file would normally have been created at that point. A review of both the electronic and administrative records reveals that no CIS file was ever created in the name of the applicant until he filed this LIFE Act application on December 24, 2002.

The applicant also contends that he qualifies for LIFE legalization because attempted to file a legalization application during the initial application period from May 5, 1987 to May 4, 1988, but was told that he did not qualify. While the applicant may have been front-desked (informed that he was not eligible for temporary residence) when he attempted to file a legalization application, this action alone does not equate to having filed a written claim for class membership in any of the requisite legalization class-action lawsuits.

Given his failure to establish having filed a timely written claim for class membership, 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.