



U.S. Citizenship
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Services

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FILE:

MSC 02 142 60266

Office: NATIONAL BENEFITS CENTER

Date: APR 10 2006

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.

A handwritten signature in cursive script that reads "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 states that he did file a written claim to class membership in a legalization class-action lawsuit prior to October 1, 2000. The applicant contends that he gave documents reflecting his class membership to an attorney, but that this individual left this country without returning his documents.

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.

At issue in this proceeding is whether the applicant had established that he had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000. The applicant neither claimed nor documented that he filed a written claim to class membership with his Form I-485 LIFE Act application. Rather, the applicant submitted documents relating to a previously filed application for temporary resident status as a special agricultural worker (SAW) under section 210 of the Immigration and Nationality Act (Act). The applicant timely filed the application for temporary resident status as a SAW under section 210 of the Act on December 8, 1987, and this application was subsequently denied on July 12, 1991. The applicant's appeal to the denial of the SAW application was subsequently dismissed by the AAO on January 19, 1995. 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 Act.

Both in response to the notice of intent to deny and on appeal, the applicant asserts that he did file a written claim to class membership in a legalization class-action lawsuit prior to October 1, 2000. The applicant also contends that he gave documents reflecting his class membership to an attorney, but that this individual left this country without returning his documents. However, the applicant fails to specify the name of this attorney, much less provide any independent evidence to establish that he enlisted the services of an attorney to assist him in applying for class membership. Moreover, the applicant does not submit any evidence to corroborate his assertion that he filed a written claim to class membership in one

of the legalization class-action lawsuits cited above. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Given his failure to 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.

Beyond the director's decision, another issue in this proceeding is whether the applicant 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. An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center [or other office] does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*. 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989) (noting that the AAO reviews appeals on a *de novo* basis).

An applicant for permanent resident status must establish 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. *See* § 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b).

The record shows that the applicant included a Form G-325A, Record of Biographic Information, with the filing of his Form I-485 LIFE Act application on February 19, 2002. At that portion of the G-325A where applicants were asked to list their last address outside of the United States of more than one year, the applicant specifically acknowledged that he resided in Gazipur, Bangladesh from his date of birth in March 1956 through September 1983.

As the applicant has admitted that he did not continuously resided in an unlawful status in the United States from prior to January 1, 1982 as required by both section 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b), he is ineligible for permanent residence under the provisions of the LIFE Act on this basis as well.

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