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U.S. Citizenship
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Services

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[REDACTED]

FILE:

[REDACTED]

Office: NATIONAL BENEFITS CENTER

Date:

APR 27 2007

IN RE:

Applicant:

[REDACTED]

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:

[REDACTED]

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, Chief
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 on appeal. The appeal will be dismissed.

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.

On appeal, counsel claims that he was not served with a Notice of Intent to Deny.

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 her LIFE application, the applicant only submitted an affidavit of residence and a copy of her employment authorization card, Form I-688B, which she received as an alien who filed an application for suspension of deportation or cancellation of removal.

It is noted that in a letter dated May 30, 2002, counsel asserted that the applicant had applied for class membership as evidence by the applicant's affidavit, which indicated "she applied twice for benefits under the Zambrano lawsuit" and "...eventually received an employment authorization." Counsel, asserted, in part:

It is not necessary that she have been granted membership in the class action lawsuit or that she have actually received benefits. Even so, it appears that applicant was granted Employment Authorization as a result of her filings.

This card was valid from December 1999 through June 2000. In order for the applicant to have received it, she must have applied before the deadline of October 1, 2001. Therefore, it is clear that applicant filed with the Attorney General a written claim for class membership in one of the three legalization lawsuits before the deadline of October 1, 2000.

The assertions of counsel and the applicant, however, are not supported by the record. The employment authorization was approved based on an application for suspension of deportation or cancellation of removal that was filed by the applicant.

On November 20, 2002, the director issued a Notice of Intent to Deny, which was sent to counsel's address of record. The notice informed the applicant that no evidence had been submitted to establish that she had applied for class membership in any of the legalization class-action lawsuits. The applicant was advised to submit evidence of class membership. No response, however, was received and accordingly, on January 2, 2004, the director denied the application. The director, in his decision, noted that the employment card and affidavit of residence did not serve as evidence of a claim to class membership.

On appeal, counsel asserts that the applicant's previous employment card is not relevant to determining her eligibility for legalization under the LIFE Act. The AAO agrees with counsel that the submission of the employment card by the applicant has no bearing in the issue at hand as it was obtained by her filing an application for suspension of deportation or cancellation of removal.

Counsel argues that the regulation (8 C.F.R. § 245a.10) cited by the director as the ground for denial of the application had not gone into effect at the time the applicant filed her legalization application.

The legalization class-action lawsuits mentioned above relate to aliens who claim they did not file applications in the 1987-1988 period because they were improperly dissuaded by the legacy Immigration and Naturalization Service (INS). Counsel's argument, however, has no merit as the record contains no evidence that the applicant had filed or attempted to file a Form I-687, Application for Status as a Temporary Resident under section 245 of the Immigration and Nationality Act. Throughout the application process, no reference has been made indicating that the applicant had been improperly dissuaded by the legacy INS. Furthermore, none of the documents outlined in 8 C.F.R. § 245a.14 as evidence to establish that the applicant filed a written claim for class membership before October 1, 2000 were submitted. The record does reflect that the applicant had filed a Form I-589, Application for Asylum and for Withholding of Deportation on June 8, 1997. The documentation in the record regarding the applicant's asylum application and removal proceedings makes no mention of an attempt to file a Form I-687 application during the eligibility period. An application for asylum status does not constitute an application for class membership in any of the legalization class-action lawsuits.

The applicant has failed to submit documentation which establishes that she filed a timely, written claim for class membership in one of the requisite legalization class-action lawsuits. The record reflects that all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership in a timely manner. Given her failure to document that she 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.