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**U.S. Citizenship
and Immigration
Services**



L2

FILE:



Office: NATIONAL BENEFITS CENTER

Date: JUN 13 2007

MSC 03 161 62008

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, 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 remanded by the Administrative Appeals Office (AAO). The director certified the matter to AAO for review. The decision will be affirmed.

In his initial decision, the director denied the application because the applicant had: 1) been found inadmissible under section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (the Act), as he had made a false claim to United States citizenship; and 2) not established that he had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000.

In the subsequent certified decision, the director concluded that the evidence provided by the applicant failed to establish that he filed an actual written claim for class membership in a timely manner.

The applicant had neither addressed the certified decision nor provided any evidence to overcome the director's findings.

An applicant for permanent resident status under section 1104 of 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 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*). In the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership in a legalization class-action lawsuit before October 1, 2000. 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, he applicant submitted a Form for Determination of Class Membership dated May 23, 1991; a copy of a Form I-687 application signed May 23, 1991; his birth certificate as well as his spouse's and son's birth certificates without the required English translations; an English translation of his marriage certificate without the original; and evidence of his residence.

In denying the application on June 12, 2003,¹ the director concluded that the applicant had been found inadmissible under section 212(a)(6)(C)(ii) of the Act, because he had made a false claim to United States citizenship. The director also 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.

On appeal, the applicant asserted that he filed a Form I-687 application and determination form. The applicant submitted copies of the Form I-687 application and Form for Determination of Class Membership that was previously provided.

¹ At the time the Form I-485 was filed, the applicant was given alien registration number [REDACTED]. Once it was apparent that the applicant had a prior A-file [REDACTED], all the documentation from the Form I-485 application was consolidated into the prior A-file.

On June 12, 2006, the case was remanded as the applicant was not advised of the adverse information prior to the issuance of the director's decision pursuant to 8 C.F.R. § 245a.20(a)(2), and he was not provided an opportunity to file a waiver of inadmissibility regarding his false claim to United States citizenship.

On November 17, 2006, the director withdrew the previous decision, reopened the proceedings and issued a Notice of Intent to Deny. In the notice, the applicant was advised that there was no record of him filing a Form I-687 application, and the determination form appeared to have "been modified numerous times and may have had information added to it and subtracted from it." The applicant was also advised that there was no record establishing that the determination form was received from or was submitted by him. The director determined that none of the documents submitted provide the prima facie evidence requirement to establish that a timely written claim for class membership had been filed.

Although, the applicant did not indicate on his LIFE application that his spouse was applying with him, an attempt to determine if the applicant may be eligible for the benefit being sought as a derivative beneficiary was conducted by the director. Citizenship and Immigration Services records, however, revealed that the spouse's LIE application was denied on April 12, 2004.

It must be noted that because the applicant's marriage occurred on April 14, 1989, the requisite relationship to his spouse did not exist when the spouse may have attempted to apply for legalization during the May 5, 1987 through May 4, 1988 period and, therefore, the applicant would not have been eligible to derive status from his spouse under section 1104 of the LIFE Act.

The applicant was provided 30 days in which to submit a response. The applicant, however, failed to respond to the notice. On January 3, 2007, the director certified his decision to the AAO. As previously noted the applicant has not addressed the director's decision or provided any evidence to overcome the director's findings.

Assuming, *arguendo* the applicant was front-desked (informed that he was not eligible for temporary residence) when he 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.

The applicant has failed to submit documentation which establishes that he 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 his failure to document that he failed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act. Therefore, the decision recommending denial of the LIFE Act application shall be affirmed.

ORDER: The certified decision recommending the denial of the application for permanent resident status is affirmed.