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FILE:

MSC-03-249-63100

Office: CALIFORNIA SERVICE CENTER

OCT 12 2007
Date:

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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. 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 "R. Wiemann", with a stylized flourish at the end.

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, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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.

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. 8 C.F.R. § 245a.11(b). The regulation at 8 C.F.R. § 245a.15(c)(1) further states that an applicant shall be regarded as having continuously resided in the United States if no single absence from the United States has exceeded forty-five (45) days, and the aggregate of all absences has not exceeded one hundred and eighty (180) days during the requisite period unless the applicant can establish that his or her return was untimely due to emergent reasons. The regulation at 8 C.F.R. § 245a.12(e) state that applicants for adjustment of status to that of a Legal Permanent Resident under this section bear the burden of establishing that they have resided continuously in the United States for the duration of the requisite period by a preponderance of the evidence.

In denying the applicant, the director noted that evidence submitted by the applicant in support of his application was not sufficient to meet his burden of proof of establishing by a preponderance of the evidence that he had resided continuously in the United States for the duration of the requisite period. The record shows that the director issued a Form I-72 on June 28, 2005 that required the applicant to submit evidence of continuous unlawful residence in the United States for the duration of the requisite period, evidence that he had entered the United States before January 1, 1982 and evidence that the applicant had maintained continuous physical presence from November 6, 1986 to May 4, 1988. The director specified on this Form I-72 that affidavits alone were not sufficient evidence to prove by a preponderance of the evidence that the applicant had maintained continuous residence in the United States for the duration of the requisite period. Though the director noted that his office did receive additional evidence from the applicant in response to the Form I-72, he stated that this evidence was not sufficient to prove, by a preponderance of the evidence that the applicant had resided continuously in the United States for the duration of the requisite period. Therefore, he denied the application.

On appeal, the applicant indicates that he will send a brief and/or evidence in support of his application within thirty (30) days. He states that because of the length of time that has passed since 1981, many of his workplaces are no longer in business and it is therefore difficult to gather

such evidence. It is noted here that the Service received the applicant's Form I-290 Notice of Appeal to the Administrative Appeals Office on February 15, 2007. As of October 9, 2007 the AAO has not received a brief or additional evidence from this applicant.

It is noted here that the Service received the applicant's appeal thirty-six (36) days after the director issued his decision. However, the record indicates that the Service erred in sending the director's decision to the wrong address. Service records also indicate that the applicant had properly informed the Service of his address previous to the decision being sent. Therefore, the director's decision was not sent to the applicant until January 25, 2007. As the Service received the applicant's appeal on February 15, 2007, less than thirty-three (33) days after the applicant was mailed the director's decision at his correct address of record, his appeal is considered filed timely.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence. Nor has he addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

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