



U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

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[Redacted]

FILE: [Redacted]
MSC 02 120 62400

Office: NATIONAL BENEFITS CENTER

Date: SEP 07 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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, remanded by the Administrative Appeals Office (AAO), and denied again by the Director, National Benefits Center. The matter is now before the 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 puts forth a brief disputing the director's findings.

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.

In support of his application, the applicant submitted a copy of a Legalization front-desking questionnaire dated March 31, 2000, along with copies of PS Form 3800, certified mail receipt, postmarked January 26, 2001, and PS Form 3811, domestic return receipt, addressed to the Vermont Service Center (VSC), front-desking claims and received on January 29, 2001. The applicant also submitted evidence to establish his residence during the requisite period.

In response to the Notice of Intent to Deny issued on August 23, 2002, the applicant resubmitted the Legalization Front-Desking Questionnaire provided in support of his application. The applicant also submitted a blank Legalization Front-Desking Questionnaire and a statement in which he cited the LIFE Act provisions. The applicant claimed that he was eligible because he submitted the questionnaire before *February 2, 2001* pursuant to instructions put forth by Citizenship and Immigration Services (CIS).

The questionnaire and deadline referred to are related to a separate program designed to identify applicants who attempted to apply for legalization during the period of May 5, 1987 to May 4, 1988, but whose applications were rejected or "front-desked." Under this program, the questionnaire was reviewed by the VSC to determine whether the front-desking claim was valid. If it was found to be valid, the applicant was instructed to file a Form I-687, Application for Status as a Temporary Resident, with the Texas Service Center. The application was then adjudicated as though filed during the initial filing period.

In the instant case, the record reflects that the questionnaire was found to be valid, and on November 6, 2001, VSC sent a notice to the applicant, which advised him to submit a completed Form I-687 application, the required filing fee of \$185.00, a Form I-765, Application for Employment Authorization, and the required fingerprint fee of \$25.00 to the Texas Service Center (TSC). However, CIS records do not reflect that the applicant complied with this notice.

On appeal, the applicant provided copies of CIS notices that were issued to several applicants regarding the reopening and approval of their LIFE Applications along with a statement in which the applicant cited regulations and instructions for individuals who filed a written claim for class membership.

There is not enough information available to determine whether the fact pattern in the instant case was the same as in the cases cited by the applicant. Nevertheless, it must be noted that each individual case is ultimately decided on its own merits and based on its own record of proceeding and, therefore, said notices cannot be considered in this case. Submitting a questionnaire to the VSC under this program is not the equivalent of filing a written claim to class membership under one of the LIFE Act related lawsuits, nor does it alter the requirement that the written claim must have been filed prior to October 1, 2000 as stated in 8 C.F.R. § 245a.10.

On appeal, the applicant also provided a Form I-687 application dated November 19, 1993 bearing an original signature. As this is an *original* document it can be concluded that it was never filed or was received by the Texas Service Center. If the applicant truly had this application in his possession since 1993, it would seem logical he would have furnished it with the questionnaire which was submitted on January 29, 2001 or as requested to the TSC. Moreover, the applicant does not explain *why*, if this application was truly in his possession the entire time, he did not submit it with his subsequent LIFE application, or in rebuttal to the Notice of Intent to Deny, as applicants were advised to provide evidence *with* their applications.

Here, in the current proceeding, the applicant has not applied for class membership in a lawsuit but rather has applied directly to CIS for permanent residence under the LIFE Act. The basic statutory requirement of having filed for class membership by October 1, 2000 must still be met in all LIFE cases, regardless of the other previously authorized administrative deadline established for filing questionnaires.

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.

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