

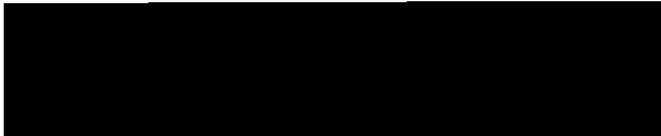
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U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CLEVELAND

Date:

MAR 20 2008

MSC 03 240 60842

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:



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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The director of the Cleveland District Office denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act and certified her decision to the Administrative Appeals Office (AAO). **The director's decision will be affirmed.** The application will be denied.

The district director denied the application because the applicant failed to demonstrate that he filed a claim for written class membership in the *Catholic Social Services, Inc. (CSS)*, *League of United Latin American Citizens (LULUC)*, or *Zambrano* legalization class action lawsuits.

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 one 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 Services v. Zambrano*, 509 U.S. 918 (1993) (“Zambrano”). See section 1104(b) of the LIFE Act and 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 has established that he filed a timely written claim for class membership. Here, the applicant has failed to meet this burden.

In the Notice of Intent to Deny (NOID), dated on or about March 4, 2004, the director stated that the evidence provided failed to establish that the applicant filed a timely written claim for class membership in one of the legalization class action lawsuits. The director granted the applicant thirty (30) days to submit additional evidence. In response to the NOID, counsel asserted that the applicant mailed a notice to join the CSS class action lawsuit to the Attorney General in a timely manner. Counsel provided a copy of the letter. In a February 15, 2008, Notice of Decision (NOD), the director denied the instant application and certified the case to the Administrative Appeals Office for review.

The record contains a photocopy of a September 15, 2000, letter by the applicant to the Attorney General. In the letter, the applicant requested to join the class action in CSS. In response to the NOID, counsel states that one of the ways for an alien to establish class membership application is for the alien to appear in the U.S. Citizenship and Immigration Services’ (USCIS) databases as a registered alien. Counsel asserts that while the applicant does not appear in USCIS’s databases, the applicant can still establish class membership application by providing any documentary evidence. Counsel contends that the applicant’s letter to the Attorney General is sufficient to prove the applicant’s claim as it falls under “any other relevant document(s)” as stated in 8 C.F.R. 245a.14(g).

In the context of the regulation at 8 C.F.R. § 245a.14, documents that prove an alien filed a written claim for class membership consist of documents issued by the Service to the alien, most of which include the alien's name, A-number, and date. The document bearing a date-stamp by the Service serves as confirmation that the applicant filed a written claim for class membership.

Here, the applicant failed to provide any Service documents which prove his claim for class membership was filed. While the applicant's letter has been considered, the letter provides minimal probative value. The applicant's letter neither confirms his claim was filed nor does it serve as verification by the Service. In the absence of additional evidence, the applicant has failed to prove that he filed a timely written claim with the Attorney General for class membership in one of the legalization class action lawsuits.

In the NOD, the director also noted that applicant was statutorily ineligible for the benefit sought pursuant to Section 1104(c)(2)(B) of the LIFE Act. The director also noted that the applicant failed to demonstrate that he entered the United States before January 1, 1982, and resided in a continuous unlawful status since that date through May 4, 1988.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

The record contains a photocopy of the applicant's passport, issued on August 1979. On page 7 the passport, the applicant received a F-1 visa to the United States, issued on December 13, 1979. On page 6 of the passport, there is an admittance stamp to the United States, date-stamped on January 2, 1980.

On page 17 the passport, the applicant received a second F-1 visa to the United States, issued on August 27, 1981. On the same page, there is an admittance stamp to the United States, date-stamped on September 30, 1981.

On page 15 the passport, the applicant received a third F-1 visa to the United States, issued on April 22, 1985. On page 14 of the passport, there is an admittance stamp to the United States, date-stamped on April 30, 1985.

The evidence indicates that the applicant entered on January 2, 1980 as an F-1 student. The applicant subsequently entered the United States on September 30, 1981 and April 30, 1985, as an F-1 student. There is nothing in the record to indicate that the applicant's F-1 status was ever terminated from January 2, 1980, through April 30, 1985. Given this, the applicant was not in an unlawful status from January 1, 1982, through May 4, 1988. Therefore, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence through May 4, 1988 as required under Section 1104(c)(2)(B) of the LIFE Act.

Based on the above discussion, the applicant is ineligible for permanent resident status under Section 1104 of the LIFE Act. Accordingly, the AAO shall not disturb the director's denial of the application.

**ORDER:** The director's February 15, 2008, decision is affirmed. The application is denied.