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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services



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FILE:



Office: NATIONAL BENEFITS CENTER

Date: **JAN 14 2005**

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. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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, Director
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 (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 reiterates his claim that he received erroneous advice during the initial application period for amnesty from May 5, 1987 to May 4, 1988. The applicant indicates that this advice caused him to file a Form I-700, Application for Temporary Resident Status as a Special Agricultural Worker (SAW) under Section 210 of the Immigration and Nationality Act (INA), rather than a Form I-687, Application for Temporary Resident Status (legalization) under Section 245A of the INA.

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. The regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

The applicant neither claimed nor documented that he filed a written claim to class membership in one of the requisite legalization class action lawsuits with his Form I-485 LIFE Act application. Rather, with his LIFE application, the applicant included photocopies of his previously submitted Form I-700 special agricultural worker application and related documents. The record shows that the Form I-700 special agricultural worker application was timely filed with the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) on April 25, 1988. This special agricultural worker application was denied on March 20, 1992. The applicant appealed the denial of the special agricultural worker application and this appeal was dismissed by the AAO on January 29, 1996. An application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits. Furthermore, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status as a special agricultural worker under section 210 of the INA.

In the notice of intent to deny issued on November 5, 2003, the director noted that the applicant had failed to either claim or document that he filed a written claim to class membership in one of the requisite legalization class action lawsuits with his LIFE Act application. In addition, the director determined that the applicant had been arrested and charged with carrying a concealed weapon in De Kalb County, Georgia on October 28, 1995. While a review of record reveals no evidence regarding the disposition of this criminal charge, it is clear that the offense that the applicant was charged with is a misdemeanor under Georgia criminal law. Consequently, even if the applicant had been convicted of this specific charge, the applicant would neither be inadmissible nor ineligible for adjustment to permanent residence under the provisions of the LIFE Act as a result of the misdemeanor conviction. Therefore, the issue of the applicant's criminal history need not be discussed further.

In response to the notice of intent to deny, the applicant submitted a statement in which he claimed that he was eligible for temporary resident status under section 245A of the INA because he had resided in the United States since prior to January 1, 1982, as well as being eligible for temporary resident status as a special agricultural

worker under section 210 of the INA. The applicant asserted that he received erroneous advice from an immigration advocacy group during the initial application period for amnesty from May 5, 1987 to May 4, 1988. The applicant indicated that this advice caused him to file a Form I-700 special agricultural worker application rather than a Form I-687 legalization application. The applicant asserted that the immigration advocacy group failed to return all of the documents he had provided to assist in preparing his application. However, a review of the Form I-700 special agricultural worker application submitted to the Service on April 25, 1988 reveals no indication that this special agricultural worker application was prepared by a third party, but rather demonstrates that the applicant himself completed the Form I-700 application. The applicant included documentation with his response that related to both his claim of residence in this country and the adjudication of this Form I-700 special agricultural worker application. Although the applicant also included photocopies of three money orders with his response, the money orders provide no evidence demonstrating that the applicant submitted a written claim to class membership in a legalization class-action lawsuit prior to October 1, 2000.

On appeal, the applicant reiterates his claim that he received erroneous advice from an immigration advocacy group that caused him to file a Form I-700 special agricultural worker, rather than a Form I-687 legalization application. While the applicant may have received erroneous advice when he attempted to file a legalization application during 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. Moreover, the record contains no evidence to establish that the applicant subsequently filed a written claim to class membership in a legalization class-action lawsuit prior to October 1, 2000.

The applicant has failed to submit documentation that credibly establishes his having filed a timely written claim for class membership in one of the aforementioned legalization class-action lawsuits. Accordingly, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act. Therefore, the decision recommending denial of the LIFE Act application shall be affirmed.

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