

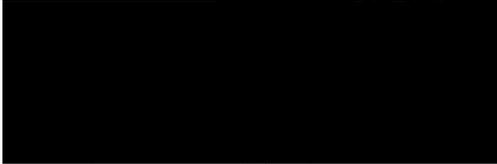
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U.S. Citizenship
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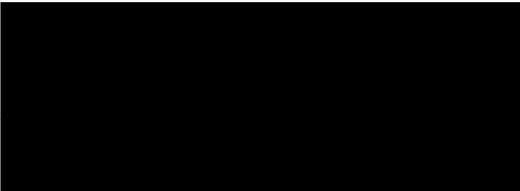


JAN 21 2005

FILE:  Office: NATIONAL BENEFITS CENTER Date:

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. 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, 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, reopened, and denied again by said Director. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The directors 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 from the initial Notice of Decision, the applicant asserted that he is eligible for permanent resident status under the LIFE Act. The applicant further asserted that his only evidence of applying for class membership is correspondence from Citizenship and Immigration Services (CIS).

In response to the subsequent Notice of Decision, the applicant reiterates his claim to having filed a timely written claim for class membership.

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. 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.

The applicant indicated on his Life application that his spouse was applying for adjustment of status under the provisions of the LIFE Act. CIS records, however, do not reveal any evidence that the applicant's spouse had filed a timely written claim to class membership.

Along with his LIFE application, the only document the applicant submitted was a G-325A Biographical Information Form. In response to the initial Notice of Intent to Deny issued on September 2, 2002, counsel provided a letter reaffirming the applicant's eligibility for the benefit being sought and explained the relationship between the applicant and his beneficiaries. Counsel submitted copies of the applicant's birth and marriage certificates along with his family's birth certificates.

As previously mentioned by the director in his Notice of Decision, these documents do not establish that the applicant filed a timely written claim for class membership prior to October 1, 2000.

On August 13, 2003, the director issued a Notice of Intent to Deny, which provided the applicant another opportunity to submit evidence establishing he filed a timely written claim for class membership. The applicant, however, failed to respond to the notice. Accordingly, the director denied the application.

There is no record of CIS generating any correspondence prior to the filing of the applicant's Form I-485 Application. As such, the applicant's assertion on appeal has no merit. Furthermore, CIS records fail to establish that the applicant filed a timely written claim for class membership in any of the legalization class action lawsuits as required in section 1104(b) of the LIFE Act.

On appeal, the applicant submits a partial photocopy of what he purports to be an envelope from CIS. He asserts that the envelope is proof that he filed a timely written claim for class membership. Because the applicant did not

provide the documentation that was contained in the envelope, it cannot be determined that said documentation related to any of the legalization class action lawsuits. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *See Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

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.