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

PUBLIC COPY



JAN 27 2005

FILE:  Office: Missouri Service 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. The file has been returned to the office that originally decided your case. 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, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied, reopened, and denied again by the Director, Missouri Service Center. It is before the Administrative Appeals Office on certification. The decision will of the director will be withdrawn and the appeal will be sustained.

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, counsel resubmits documents that the applicant filed with Citizenship and Immigration Services or CIS (formerly, the Immigration and Naturalization Service or INS) and argues that the requirements of the Act have been satisfied by the applicant not once, but several times.

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), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993). 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.

Along with his LIFE application, the applicant provided a photocopy of a letter dated July 27, 2000 from the Center Director of the INS Vermont Service Center indicating that the applicant had established that he had attempted to physically tender a completed application to an INS or Qualified Designated Equity office employee between May 5, 1987 and May 4, 1988, but had it rejected by that employee.

In response to the director's Notice of Intent to deny, the applicant resubmitted a photocopy of the Vermont Service Center (VSC) letter and letter and a photocopy of an appointment notice dated May 17, 1991 from a legalization officer of the Houston INS office scheduling an interview with the applicant concerning the "late filing of LULAC or CSS application."

The record contains an original Legalization Questionnaire that the applicant filed with the VSC on January 10, 2000. That questionnaire served as the basis for the VSC letter dated July 27, 2000 discussed above. The questionnaire is 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 temporary residence, with the Texas Service Center. The application was then adjudicated as though filed during the initial filing period.

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 the regulations at 8 C.F.R. § 245a.10.

However, as noted above, the applicant provided an appointment notice dated May 17, 1991 from a legalization officer of the Houston INS office scheduling an interview with him concerning the "late filing of LULAC or CSS application."

Pursuant to 8 C.F.R. § 245a.14(b), an applicant may submit, as evidence of having filed for class membership, any relevant document(s) which acknowledge his class membership. The photocopied notice submitted by the applicant serves to corroborate his claim on appeal that he attempted without success to apply for class membership in LULAC or CSS. In his decision, the director did note that CIS has no record of sending the applicant an appointment notice. However, he did not establish that the information contained in the notice was either false or inconsistent with the applicant's claims on the application or on rebuttal. It is, therefore, concluded that the applicant has established eligibility for class membership.

It must now be determined whether the applicant is otherwise eligible for permanent resident status under section 1140 of the LIFE Act. Accordingly, the matter will be forwarded to the appropriate district office for further processing and adjudication of the LIFE Act application.

ORDER: The decision is withdrawn. The appeal to the director's decision dated September 9, 2002 is sustained.