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**U.S. Citizenship
and Immigration
Services**

L2

FILE:



Office: NATIONAL BENEFITS CENTER

Date: **NOV 15 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. 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 "Robert P. Wiemann".

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 then remanded by the Administrative Appeals Office (AAO). The director's subsequent decision to recommend that the application be denied again has been certified to the AAO. The decision will be affirmed.

In his initial decision, the director concluded that the applicant was inadmissible under section 212(a)(6)(E)(i) of the Immigration and Nationality Act (the Act) due to his alien smuggling conviction.

On appeal, the applicant claimed that he did not know any of the individuals at the time of his arrest.

The case was remanded by the AAO as the director made no determination of the applicant's criminal ineligibility, and whether the applicant had applied for class membership in any of the legalization class-action lawsuits.

In a subsequent certified decision, 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. The director also concluded that the applicant had been convicted of two felonies.

The applicant has neither addressed nor provided any evidence to overcome the director's certified decision.

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.

Along with his LIFE application, the applicant submitted a copy of his: 1) Form I-687 Application for Status as a Temporary Resident under section 245A of the Immigration and Nationality Act; 2) Form I-688; 3) Form I-688A; 4) Form I-689; 5) Form I-94; and 6) evidence to establish his identity and residence in the United States.

The record reflects that the applicant timely filed a Form I-687 application on November 25, 1987. The Form I-687 application was denied on September 14, 1988. The record contains no evidence of an appeal having been filed. Section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of the matter, as the original application for temporary resident status under section 245A of the Act had been filed by the applicant in a timely manner. The legalization class-action lawsuits mentioned above relate to aliens who claim they did **not** file applications in the 1987-1988 period because they were improperly dissuaded by Citizenship and Immigration Services (CIS). In fact, CIS has no record of the applicant attempting to or filing a subsequent Form I-687 Application.

The remaining documents submitted by applicant may serve to establish his identity and residence in the United States, but they do not establish that the applicant filed a timely written claim for class membership prior to October 1, 2000.

The applicant has failed to submit any documentation establishing that he had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000. Furthermore, he has not provided any documentation regarding that point throughout the application process.

Finally, the director cited in his decision that the applicant's criminal offenses, conspiracy to aid and abet illegal entry and alien smuggling, resulted in felony convictions on October 22, 1985. Both offenses, however, can result in misdemeanor and not felony convictions. The court records contained in the file do not include the *final* court disposition and, therefore, the AAO cannot make a determination if the convictions resulted in misdemeanor or felony convictions. As such, the record is not sufficient to establish whether the applicant is ineligible under 8 C.F.R. § § 245a.11(d)(1) and 18(a).

Nevertheless, given the applicant's failure to even claim, much less 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 certified decision recommending the denial of the application for permanent resident status is affirmed.