



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

22

FILE: [REDACTED] Office: NATIONAL BENEFITS CENTER Date: JUN 27 2007
MSC 03 198 61051

IN RE: Applicant: [REDACTED]

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, Chief
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 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, counsel asserts that, as Citizenship and Immigration Services erroneously denied the applicant's Form I-687, Application for Status as a Temporary Resident, the applicant "should have been granted adjustment of status under the LIFE Act." Counsel submits a brief in support of the appeal.

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.

Counsel asserts that the applicant's initial application for status as a temporary resident was erroneously denied on the basis that he had failed to submit evidence that he had been approved, or had applied, for a waiver of the two-year foreign residence requirement of section 212(a) of the Immigration and Nationality Act 8 U.S.C. § 1182(e). According to counsel, the denial of the application, together with the dismissal of the applicant's subsequent appeal, and the rejection of the various motions submitted by the applicant subsequent to that appeal, put CIS on notice that he was applying for membership in one of the class-action lawsuits.

An eligible alien, for purposes of the LIFE Act, is one who "attempted to file or was discouraged from filing an application for legalization during the original application period" and who filed a timely written claim for membership in any of the above named class-action lawsuits. 8 C.F.R. § 245a.10.

In the present case, the applicant filed a legalization application that was denied on the merits. Counsel asserts that the Legalization Appeals Unit (LAU) erred when it dismissed the applicant's appeal. The record reflects that the LAU dismissed the applicant's appeal on September 13, 1993 based on the applicant's claim that to fulfill his two-year foreign residence requirement would result in an interruption of his continuous residence, and that, as it was his only disqualifying factor, the provision should be inapplicable in his case. According to counsel, the applicant filed seven motions subsequent to the LAU's decision. These motions, counsel asserts, constitute the applicant's written claim for membership in a requisite class-action lawsuit.

Counsel's argument is without merit. The applicant has not met the initial requirement for inclusion in any of the class-action lawsuits. The applicant was not discouraged from filing his application, and in fact, filed an application and pursued it through the appellate process. The decision of the Director, National Benefits Center, which states, "LIFE Legalization applies only to those persons who were unsuccessful in applying for legalization, and who subsequently applied for Class membership in the CSS, LULAC or Zambrano lawsuits

to argue that they were incorrectly denied legalization or that they were discouraged from applying” is misleading. The LIFE Act is not available for an applicant who believes his or her application was incorrectly adjudicated. Counsel’s reliance on the director’s statement is misplaced, as the statement is inconsistent with the provisions of the LIFE Act. Further, the act of appealing the initial denial of the legalization application or the filing of motions subsequent to that, do not rise to the level of requesting membership in a specific class.

The applicant has failed to establish that he filed a timely written claim for class membership in any of the requisite class-action lawsuits. Accordingly, 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.