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U.S. Citizenship
and Immigration
Services

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FILE:



MSC 02 057 61835

Office: CHICAGO

Date:

NOV 04 2008

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

A handwritten signature in cursive script that reads "John H. Vaughan".

for
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 in Chicago, Illinois. The matter was appealed to the Administrative Appeals Office (AAO), which remanded the application to the director for further consideration and action. The director withdrew his initial decision, denied the application again, and certified the case for review to the Chief, AAO. The director's decision will be affirmed.

The director determined that the applicant failed to establish that she had applied for class membership in one of the requisite legalization class action lawsuits prior to October 1, 2000, as required under section 1104(b) of the LIFE Act.

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that before October 1, 2000, that he or she filed a written claim with the Attorney General for class membership in one 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 section 1104(b) of the LIFE Act and 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. See 8 C.F.R. § 245a.14.

When the applicant filed for legalization under the LIFE Act on November 26, 2001, the record did not include any evidence that she had filed a written claim for class membership in CSS, LULAC, or Zambrano. In a Notice of Intent to Deny (NOID), dated January 22, 2002, the director advised the applicant to submit within 30 days "any documentation or evidence received from the Service" which shows that she applied for class membership in one of the legalization class action lawsuits before October 1, 2000.

The applicant responded by submitting three affidavits, dated February 13 and 14, 2002, from individuals who claim to have witnessed the applicant attempt to file an application for class membership in LULAC.

On August 29, 2002, the director issued a Notice of Decision denying the application for LIFE legalization. The director stated that the evidence submitted by the applicant did not establish that she applied for class membership in one of the legalization class action lawsuits.

The applicant filed a timely appeal, asserting that the director erred in his decision and referring to the program that allowed aliens to file Legalization Front-Desking Questionnaires as evidence that they attempted to apply for class membership in LULAC or one of the other class action lawsuits. The applicant submitted photocopies of documentation relating to the LIFE application and Legalization Front-Desking Questionnaire of another applicant and indicated that the

director denied that person's application as well. Like the ruling in that decision, the applicant contended, the director's decision on her application was arbitrary and should be reversed.

On April 1, 2003, the AAO remanded the case to the director. The AAO noted that the director did not specify any deficiencies in the evidence furnished by the applicant, and did not address the rebuttal statement. The AAO further noted that there was no evidence in the record that the director checked all appropriate indices and checked for other files that may have indicated that the applicant applied for class membership. The AAO stated that any perceived shortcomings in the evidence must be specified by the director in order that the applicant had the opportunity to file a meaningful appeal.

On September 20, 2005, the director issued a new decision in which he withdrew his previous decision of August 29, 2002, denied the application for LIFE legalization once again, and certified the case for review to the Chief, AAO.

In his new decision the director analyzed the three affidavits submitted by the applicant in response to the NOID and concluded that they were not bona fide. The director also reviewed Service records and found no evidence therein that the applicant had filed a written claim for class membership in one of the class action lawsuits – *CSS*, *LULAC*, or *Zambrano* – before October 1, 2000. In addition, the director reviewed every other document in the applicant's file and found that none constituted a written claim for class membership in one of the legalization class action lawsuits, within the ambit of 8 C.F.R. § 245a.14.

In certifying the case to the AAO for review, the director gave the applicant 30 days to submit a brief or written statement to the AAO. No such materials were submitted within 30 days, and none have been submitted thereafter.

The AAO has reviewed the director's decision and finds it well reasoned and thorough. As the applicant has not responded to the decision in any manner, the AAO concurs with the director's conclusion that the applicant has not established that she filed a claim for class membership in *LULAC*, or either of the other legalization class action lawsuits, before October 1, 2000. Accordingly, the applicant is not eligible for adjustment to permanent resident status under the LIFE Act.

ORDER: The director's decision of September 20, 2005 is affirmed. The appeal is dismissed. This decision constitutes a final notice of ineligibility.