

PUBLIC COPY

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

**identifying data deleted to
prevent disclosure of unclassified
information that could result in an
invasion of personal privacy**

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536



FILE:



Office: NATIONAL BENEFITS CENTER

Date:

DEC 17 2003

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:

Attached is the decision rendered on your appeal. The file has been returned to the National Benefits Center. 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 by the Director, Missouri Service Center. It is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director concluded the applicant had not established that she 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, the applicant states that she has submitted documentation establishing prima facie evidence that she had requested class membership. According to the applicant, she has not received any specifics on why she is being denied or what part of her documentation is not acceptable. The applicant requests that her application be given further consideration.

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 applicant failed to submit any documentation addressing this requirement when the application was filed. In response to a notice of intent to deny, the applicant provided a photocopy of a letter dated September 22, 2000, supposedly sent to Attorney General Reno, requesting that the applicant be registered in the *Zambrano* case. Pursuant to 8 C.F.R. § 245a.10, a written claim for class membership means a filing, in writing, in one of the forms listed in § 245a.14, which provides the Attorney General with notice that the applicant meets the class definition in the cases of *CSS*, *LULAC* or *Zambrano*. The letter does not constitute a "form" and does not equate to the actual forms listed in 8 C.F.R. § 245a.14, although that regulation also states other "relevant documents" may be considered. However, the very brief letter does not even begin to imply that the applicant could qualify for *Zambrano* class membership because it does not provide any relevant information upon which a determination could be made.

Moreover, the applicant does not explain why, if this letter were truly in her possession the entire time, she did not submit it with her LIFE application, as applicants were advised to provide evidence with their applications. In addition, it must be noted that the applicant is one of many aliens who did not furnish such identically-worded letters in the same typeface (virtually all dated from September 14 to September 25th, 2000) with their LIFE applications and yet provided them only upon receiving letters of intent to deny. It is further noted that all of these aliens had

their LIFE applications prepared by M.E. Real of a California company called Professional Tax Service, Inc. In addition, none of these aliens has provided any evidence, such as postal receipts, which might help demonstrate that the letters were actually sent to the Attorney General. Given the importance of the letters, it would be reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail.

It should also be noted that the statements on appeal submitted by these aliens, all of whom assert that they are not represented by counsel, are identical. These factors raise grave questions about the authenticity of the letter that the applicant purportedly sent to the Attorney General.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. Matter of Ho, 19 I&N Dec. 582 (BIA 1988).

On appeal, the applicant claims that she provided information showing her request for classification but has not been given any specifics as to why her application was denied. Contrary to the applicant's claim, there is nothing in the record to indicate that she filed an actual claim for class membership. Furthermore, she was sent, and apparently received, a Notice of Decision, which described in detail why the application was being denied. The center director pointed out that the photocopy of the letter does not establish that the original was ever received by the office of the Attorney General or Citizenship and Immigration Services. The director also stated that a review of all relevant records failed to disclose any indication of the applicant having made a written claim for class membership.

Given her failure to establish that she filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

Furthermore, section 1104(c)(2)(B)(i) of the LIFE Act requires the applicant to establish that she entered the United States before January 1, 1982, and resided in this country continuously in an unlawful status through May 4, 1988. On her LIFE application the applicant indicated that her "date of last arrival" in the United States was May 7, 1990. The applicant offers no evidence of any earlier residence in the United States. Thus, the record does not demonstrate that the applicant resided unlawfully in the United States for the requisite time period to be eligible for legalization under the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.

PUBLIC COPY

22

U.S. Department of Homeland Security

Citizenship and Immigration Services

**identifying data deleted to
prevent identity and warranted
invasion of personal privacy**

ADMINISTRATIVE APPEALS OFFICE

CIS, AAO, 20 Mass, 3/F

425 I Street, N.W.

Washington, D.C. 20536

[REDACTED]

FILE: [REDACTED]

Office: NATIONAL BENEFITS CENTER

Date:

DEC 17 2003

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: [REDACTED]

INSTRUCTIONS:

Attached is the decision rendered on your appeal. The file has been returned to the National Benefits Center. 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
for

Robert P. Wiemann, Director
Administrative Appeals Office

DEC 17 03 04 10 11 H

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Missouri Service Center. It 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 states that the applicant submitted an application for permanent residence during the amnesty program between May 1987 and May 1988, which was rejected. Counsel asserts that the applicant attempted "to submit his application again in 1990" to an INS (now Citizenship and Immigration Services, or CIS) officer in New York, who kept his documents and promised that an interview would be scheduled, but never contacted the applicant thereafter. Counsel contends that the documents previously submitted establish that the applicant applied for class membership in one of the legalization class-action lawsuits before October 1, 2000.

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.

None of the documentation submitted by the applicant, however, is contemporaneous with the applicant's alleged actions seeking class membership in one of the requisite legalization lawsuits. The record includes a copy of an unsigned and undated Form I-687, Application for Status as a Temporary Resident, which accompanied the Form I-485 LIFE application filed in June 2002. In that document the applicant asserted that he resided unlawfully in the United States continuously from January 1981 to December 1992, in Colombia from December 1992 to February 1999, and in the United States again from February 1999 to the "present," which the applicant stated on the form was **May 20, 2002**. This latter date clearly shows that the Form I-687 was not completed prior to October 1, 2000, as required to constitute credible evidence of a timely written claim by the applicant for class membership in one of the legalization lawsuits. Also, the director noted in his decision that "[t]he Bureau [CIS] has no record of ever receiving

the Form I-687 from the applicant." Nor did a review of CIS records, as the director indicated in his decision, turn up any other evidence of a claim for class membership prior to October 1, 2000.

The only evidence in the record of a timely written claim for class membership is a series of unsworn statements from the applicant and counsel asserting that the applicant attempted to join the *CSS* lawsuit. These statements are unsupported by any contemporary documentation. Moreover, they are vague as to the time frame of the alleged claim, provide few details of what exactly transpired, and are uncorroborated by any other affidavits from third persons. The applicant's own statement is particularly sparse. He contends that he applied for legalization during the one-year filing period from May 1987 to May 1988 (pursuant to the immigration reform legislation of 1986) and was rejected by an INS officer because of a short absence from the United States. The applicant asserts that he "later learned that I was eligible to apply and become a member for legalization," but he does not state that he actually filed a claim for class membership or identify which of the three lawsuits he targeted. Rather, he states that "I have waited all these years and now I am sending you my application to register for permanent residence." (Emphasis added.) Based on this language, it would appear that the applicant did not file any claim for class membership prior to October 1, 2000, and that the Form I-485 filed in this action may be the applicant's first attempt to acquire permanent residence since 1987-88.

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

Considering the total absence of contemporaneous documentation that the applicant filed a claim for class membership in *CSS*, *LULAC*, or *Zambrano* prior to October 1, 2000, the paucity of information in the statements provided by the applicant and counsel, the lack of any clear statement by the applicant that he filed a claim for class membership in one of the three lawsuits, and the lack of any record at CIS of a request for class membership, it is concluded that the applicant did not file a claim for class membership. Accordingly, the applicant has not established his eligibility for permanent residence under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.

PUBLIC COPY

LA

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536



FILE:



Office: NATIONAL BENEFITS CENTER

Date:

DEC 18 2003

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:

Attached is the decision rendered on your appeal. The file has been returned to the National Benefits Center. 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 by the Director, Missouri Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director concluded the applicant had not established that she 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, the applicant asserts that she has resided in the U.S. since 1986, and requests that she and her family be allowed to obtain permanent resident status and remain in this country. The applicant also submits a photocopy of a fact sheet setting forth the process by which an undocumented alien might obtain permanent resident status under the LIFE Act.

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.

The applicant failed to submit any documentation addressing this requirement when the application was filed. Furthermore, she has not provided any documentation regarding that point on rebuttal or on appeal. At Part 2(h) of her LIFE application, the applicant specifies that she has resided in the U.S. since 1988 [this information is at variance with her subsequent statement on appeal that she has resided in the U.S. since 1986]. Pursuant to 8 C.F.R. § 245a.11(b), each applicant for permanent resident status under the LIFE Act is required to demonstrate that he or she entered and commenced residing in the United States prior to January 1, 1982. Regardless of whether the applicant's residence in the U.S. dates from 1986 or 1988, the fact remains that, in either case, she is unable to meet the residence requirement as set forth in 8 C.F.R. § 245.11(b). For this reason, as well as her failure to establish having filed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.



ORDER: The decision is affirmed. The appeal is dismissed.
This decision constitutes a final notice of
ineligibility.