

PUBLIC COPY

29

U.S. Department of Homeland Security

Citizenship and Immigration Services

**identifying data deleted to
prevent disclosure of unclassified
information of national security**

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

An applicant for permanent resident status under section 1104 of 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 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 23, 2000, supposedly sent to Attorney General Janet Reno, requesting that the applicant be registered in the *CSS* 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 an actual form listed in 8 C.F.R. § 245a.14, although that regulation also states other "relevant documents" may be considered. The very brief letter, however, does not even begin to explain how the applicant could qualify for *CSS* 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 his possession the entire time, he did not submit it with his 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 furnished such identically-worded letters in the same typeface (virtually all dated from September 14 to September 25th, 2000) only after receiving letters of intent to deny, rather than simultaneously with their LIFE applications. It is further noted that all of

these aliens had their LIFE applications prepared by M.E. Real of Professional Tax Service, Santa Maria, California. 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 he provided information showing his request for classification but has not been given any specifics as to why his application was denied. Contrary to the applicant's claim, there is nothing in the record to indicate that he filed an actual claim for class membership. Furthermore, he 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 at the Bureau (Citizenship and Immigration Services, or CIS) produced no evidence that the applicant ever filed a written claim for class membership.

Given his failure to establish that he 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 he entered the United States before January 1, 1982, and resided in this country continuously in an unlawful status through May 4, 1988. The applicant indicated on his Form I-485 LIFE Application that he last entered the United States in March 1994, and on his Form I-765, Application for Employment Authorization, that he last entered the United States in March 1993. 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.