

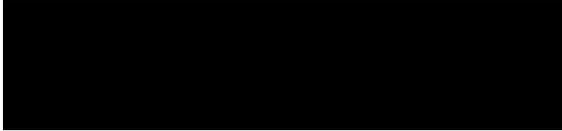
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U.S. Department of Homeland Security
Citizenship and Immigration Services

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 31 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:

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 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 the evidence submitted by the applicant is sufficient to establish his class membership and his eligibility for permanent resident status under the LIFE Act. Counsel also submits a separate statement in which he references the applicant's A-number as proof that he is a class member in the requisite legalization class-action lawsuits.

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. The regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

Along with the applicant's LIFE application was included a photocopy of a completed Form I-687 Application for Status as Temporary Resident Under Section 245A of the Immigration and Nationality Act (INA), which was apparently signed by the applicant on August 5, 1991. Also submitted along with the application was a photocopy of a CIS interview notice dated August 8, 1991, which was allegedly sent to the applicant at an address in Baytown, Texas. The notice reflects that the applicant was to be interviewed at 8:00am on April 15, 1993 at CIS's Houston, Texas legalization office regarding the question of his eligibility for class membership in the CSS or LULAC class-action lawsuits. Pursuant to 8 C.F.R. § 245a.14, such documents may be considered as evidence of having applied for class membership.

On appeal, counsel asserts that the photocopied application Form I-687 and the photocopied interview notice, both submitted by the applicant in support of his application, had previously been provided by CIS to counsel pursuant to a Freedom of Information Act (FOIA) request initiated by counsel. This would seemingly indicate that CIS had the actual Form I-687 and its agency copy of the interview notice, which might well demonstrate that the

applicant had filed a written claim for class membership. In his decision, however, the director specified that CIS had no record of having ever sent the applicant such a notice. On November 17, 2003, the AAO sent the applicant's attorney a follow-up communication informing him that, in order to expedite the adjudication of his appeal, he was requested to provide the copy of the actual cover letter from CIS which accompanied its response to counsel's FOIA request. Counsel was also asked by the AAO to provide the *original* of the photocopied interview notice, along with copies of the other documents included in CIS's FOIA response package to counsel.

Subsequently, counsel responded to the AAO's communication by submitting the requested photocopied contents of the FOIA packet along with the accompanying cover letter from CIS's FOIA officer. An examination of the July 1, 2002 cover letter from the FOIA office indicates the submission of material to counsel was prompted by counsel's request of May 21, 2002. However, the photocopied material sent by the FOIA office to counsel, which was subsequently provided by counsel to the AAO, still includes only a *photocopy* of the Houston legalization office interview notice, as opposed to the *original* of that document requested in the AAO's letter of November 17, 2003.

It should also be emphasized that this applicant has no prior CIS file. Nor is there any indication of documentation having been submitted by the applicant or by counsel to CIS until May 23, 2002, when the applicant's LIFE application was received. Accordingly, it must be concluded that what counsel actually received pursuant to his May 21, 2002 FOIA request to CIS for a copy of the material relating to the applicant was simply the material that accompanied the filing of the applicant's LIFE application two months earlier. The material sent by the FOIA office to counsel did not include any other documents relating to the applicant.

Furthermore, the aforementioned photocopied interview notice of August 8, 1991 was supposedly sent by CIS's Houston, Texas legalization office to the applicant at a Baytown, Texas street address (the notice also lists a post office box address alongside the street address). However, a review of the applicant's current Biographic Information Form G-325 indicates that he provided a list of his residences in the U.S. since January 1981. According to this listing, the applicant resided in Chicago, Illinois, continuously from January 1981 to January 1999. There is no indication of his ever having resided in Baytown, Texas, or anywhere else during this time period. A further discrepancy involves the photocopied notice itself. In the photocopied notice provided on appeal, the interview date appears as April 15, 1992. However, in other photocopies submitted by the applicant, the 1992 date has been traced over to read "1993." Neither the applicant nor counsel has attempted to account for this discrepancy. These questions involving the photocopied interview notice submitted by the applicant seriously diminish the credibility and authenticity of this document. Further, the inability of counsel and the applicant to provide the *original* interview notice casts even

further doubt on the claim that an interview notice was ever sent to the applicant.

On appeal, counsel also cites the applicant's Alien Registration Number (A-number, or file number) in an attempt to show he had applied for class membership. According to counsel, A-numbers assigned to *CSS*, *LULAC* and *Zambrano* applicants by the Houston, Texas office of Citizenship and Immigration Services (CIS) usually commenced with the numerical prefix "93" [the present applicant's A-number is ██████████]. According to counsel, this should be sufficient to establish the applicant meets the statutory requirement for eligibility under the LIFE Act.

However, while some A93 numbers were issued to *CSS*, *LULAC* and *Zambrano* applicants, other A93 numbers were issued to aliens when they applied for permanent residence under the LIFE Act. That is the case here; once the applicant filed his LIFE application, CIS proceeded to create file ██████████ and assigned that A-number to the applicant. The applicant did not have a pre-existing file and A-number at the time he filed his current LIFE application.

Given these circumstances, it is concluded that the photocopied interview notice provided by counsel in support of the application does not represent an original notice that was ever generated by CIS. There is no indication that CIS had its own "CIS copy" of the notice in its possession. CIS has only the photocopy that was provided by counsel to accompany the LIFE application. It is further concluded that the photocopy of Form I-687 is not an authentic copy of an actual form that was ever submitted.

As he has failed to credibly 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 appeal is dismissed. This decision constitutes a final notice of ineligibility.