

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

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

FILE:

Office: NATIONAL BENEFITS CENTER

Date: OCT 16 2003

IN RE: Applicant:

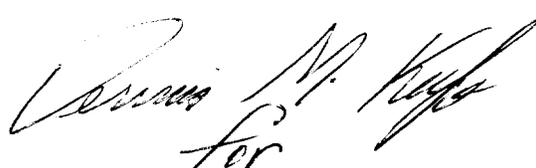
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

IN BEHALF OF APPLICANT: Self-represented

PUBLIC COPY

INSTRUCTIONS:

Attached is the decision rendered on your appeal. The file has been returned to the Service Center that processed your case. If your appeal was sustained, or if your case was remanded for further action, the Service Center will contact you. 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.


for
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, 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 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), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993). See 8 C.F.R. § 245a.10.

In the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership before October 1, 2000. However, the applicant must establish that the family relationship existed at the time the spouse or parent initially attempted to apply for temporary residence (legalization) in the period of May 5, 1987 to May 4, 1988. 8 C.F.R. § 245a.10.

The applicant failed to submit any documentation addressing this requirement when the application was filed. On rebuttal to a notice of intent to deny, the applicant provided a photocopy of a letter dated September 19, 2000, supposedly sent to Attorney General Reno, requesting that the applicant be registered in the [REDACTED] case. Pursuant to 8 CFR § 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 CFR § 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 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 numerous aliens who did not furnish such identically-worded letters in the same typeface (virtually all dated from September 14th to September 25th, 2000) with their LIFE applications, and yet provided them only upon receiving letters of intent to deny. Furthermore, despite the absence of any Form G-28, Notice of Entry of Representation in these files, the statements on appeal from all of these aliens are, word-for-word, identical. These factors raise serious questions about the authenticity of the letter that the applicant purportedly sent to the Attorney General.

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

On appeal, the applicant claims that he provided information regarding his request for classification but has not been given any specifics as to why his application was denied. However, 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 indicated that the photocopy of the letter does not establish that the original was ever received by the office of the Attorney General or by Citizenship and Immigration Services. The director also pointed out that a review of all relevant records, including a prior file which has been consolidated into the current file, failed to disclose any indication of the applicant having made a written claim for class membership.

Nor is there any evidence in Bureau records that the applicant's spouse has ever filed a written application for class membership. Furthermore, according to the applicant's Biographic Information Form G-325A, he and his spouse were not married until January 6, 1992. As such, the family relationship did not exist as of May 4, 1988 -- the termination of the application period for temporary resident status under section 245A of the Immigration and Naturalization Act (INA). Therefore, the applicant cannot claim class membership as a derivative alien pursuant to 8 C.F.R. § 245a.10.

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.



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