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U.S. Citizenship  
and Immigration  
Services



FILE:



Office: National Benefits Center

Date: APR 05 2004

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. 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.

A handwritten signature in cursive script that reads "Dennis M. Kopf 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. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the record did not establish the applicant had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, the applicant asserts that she filed a timely claim for class membership before October 1, 2000.

Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been furnished by Mario E. Carretero, who indicates he has been an immigration consultant for over thirty years. 8 C.F.R. § 292.1(a)3 specifies that an applicant may be represented by a reputable individual who is appearing without direct or indirect remuneration and files a written declaration to that effect. As no such declaration has been filed by Mr. Carretero, this decision will be sent to the applicant only.

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

In her LIFE application the applicant identified CSS as the basis of her eligibility for “LIFE legalization.” She also submitted a photocopy of a form letter from the Immigration and Naturalization Service (INS), dated October 10, 1996, with the handwritten entry “Please find enclosed your packet CSS as the program is no longer available.” The addressee was not identified in the letter. In response to the director’s notice of intent to deny, the applicant submitted a photocopy of a “Legalization Questionnaire,” signed by her and dated January 7, 2000, in which the applicant asserted that she went to an INS office on March 15, 1988, where she attempted to file an application for legalization under the Immigration Reform and Control Act of 1986 (“IRCA”), but was rebuffed (*i.e.*, “front-desked”) by the INS officer. According to the applicant, she went again in January 1996 to the INS office in Chicago, Illinois, and spoke with an INS officer who told her to mail in an application package. She did that, the applicant asserts, but alleges the package was returned ten months later with a note (the applicant is probably referring to the form letter dated October 10, 1996) stating that “C.S.S. was over.”

The applicant contends that the questionnaire, dated January 7, 2000, constitutes a claim for class membership in CSS prior to October 1, 2000, as required under section 1104(b) of the LIFE Act. However, Citizenship and Immigration Services (successor to the INS) has no record that the applicant actually submitted the questionnaire before the October 1, 2000 filing deadline. The applicant has submitted no evidence, such as a postal receipt or an acknowledgement letter from the agency, demonstrating that the questionnaire was completed and sent to the INS in January 2000, as alleged, or any time prior to October 1, 2000. The agency has no record of receiving the questionnaire until September 30, 2002, in response to the director’s notice of intent to deny the instant LIFE application. That was two years after the deadline for filing a claim for class membership in one of the legalization lawsuits. Thus, the applicant has failed to demonstrate that the questionnaire was a timely filed claim for class membership in CSS.

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 February 13, 2004, the AAO sent a letter to the applicant requesting that she submit the original of the INS form letter dated October 10, 1996. The applicant responded with the assertion that INS has the original. As the director indicated in the decision of the Missouri Service Center, however, the letter does not even identify the name or address of the recipient. Thus, there is no way to verify that it had anything to do with the applicant. Citizenship and Immigration Services (successor to the INS) has no record of sending any correspondence to the applicant in 1996, or of receiving any correspondence from her until the instant LIFE application was filed in May 2002. That was long after the October 1, 2000 deadline to file a claim for class membership in CSS or one of the other legalization lawsuits.

In response to the AAO's letter of February 13, 2004, the applicant submitted photocopies of a Form I-687, Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act), signed by the applicant and dated March 14, 1988, as well as an undated affidavit by the applicant "in connection with my application under section 245A [IRCA] and in the matter of classification under LULAC vs. INS or CSS vs. Meese." These documents, as well as the previously discussed INS form letter, are listed in 8 C.F.R. § 245a.14 as examples of evidence which may be furnished in an effort to establish that an alien had previously applied for class membership. Although the Form I-687 is dated March 14, 1988, the applicant has submitted no evidence, such as a postal receipt or an acknowledgement letter, that she actually sent the document to the INS in 1988, as alleged, or any time prior to October 1, 2000, the deadline under the LIFE Act to file a claim for class membership in one of the legalization lawsuits. Nor has the applicant furnished any evidence that the undated affidavit was submitted to the INS before October 1, 2000. In fact, Citizenship and Immigration Services has no record of receiving either document until March 3, 2004, as part of the applicant's response to the AAO's February letter. Moreover, the applicant does not explain *why*, if these documents were truly in her possession the entire time, she did not submit them with her LIFE application in 2002, rather than nearly two years later.

For the reasons discussed above, it is concluded that none of the foregoing documents – *i.e.*, the INS form letter dated October 10, 1996, the I-687 application dated March 14, 1988, or the undated affidavit – was filed with the INS before October 1, 2000, as required to constitute a timely claim for class membership in CSS under section 1104(b) of the LIFE Act.

Thus, the record fails to establish that the applicant filed a written claim for class membership in CSS, or either of the other two legalization lawsuits, *LULAC* or *Zambrano*, before October 1, 2000. Accordingly, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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