

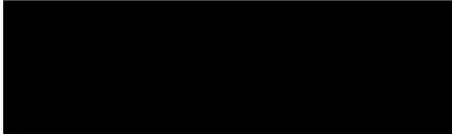
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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



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 "Robert P. Wiemann" with "for" written below it.

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 applicant had not established 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 submits some additional documentation which was allegedly "not available" when he filed his application.

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 his LIFE application the applicant identified "CSS vs. Meese" as the basis of his eligibility for permanent resident status, but he submitted no evidence that he had applied for class membership in that lawsuit. In response to the director's notice of intent to deny, the applicant submitted a photocopy of a letter to Attorney General Janet Reno, dated September 18, 2000. In that letter the applicant purportedly sought to have the Attorney General register him as a class member in the CSS lawsuit. 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 in this case does not constitute a "form" and does not equate to the actual forms listed in 8 C.F.R. § 245a.14, although that regulation states that other "relevant documents" may also be considered. The applicant's brief letter, however, does not even begin to imply that he 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.

It must be noted that the applicant is one of many aliens who furnished such identically-worded letters (virtually all dated in September 2000) only after receiving letters of intent to deny, rather than simultaneously with their LIFE applications. All of these aliens had their LIFE applications prepared by M.E. Real of a California company called Professional Tax Service, Inc. 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 is reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail. All of 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).

The applicant furnishes no further evidence on appeal with respect to the letter to the Attorney General. The photocopy in the record does not establish that an original was actually received by the office of the Attorney General or by the Immigration and Naturalization Service (now Citizenship and Immigration Services, or CIS) in September 2000. The applicant has not provided any evidence, such as a postal receipt, that could help to show that he actually sent the subject letter to the Attorney General in September 2000, as alleged. In fact, there is no record that the subject letter was ever submitted prior to October 22, 2002, the date it was received by the Missouri Service Center in response to the director's notice of intent to deny the instant application. This was long after the statutory deadline of October 1, 2000, for filing a written claim for class membership in one of the legalization lawsuits. See section 1104(b) of the LIFE Act. Based on the entire record in this case, it is concluded that the photocopied letter the applicant has submitted, dated September 18, 2000 and allegedly sent to the Attorney General, is *not* a true copy of an authentic document.

On appeal, the applicant also submitted the following additional materials:

- 1) a photocopied Form I-687 application for status as a temporary resident under section 245A of the Immigration and Nationality Act (INA), allegedly signed by the applicant in November 1989,
- 2) a photocopied Form for Determination of Class Membership in *CSS v. Meese*, allegedly signed by the applicant on March 15, 1995, and
- 3) a notice from the INS Legalization Office in Los Angeles, dated February 14, 1995, purportedly scheduling an interview for the applicant on September 19, 1996 "to submit your application for amnesty as a *CSS vs. Thornburgh* or *LULAC vs. INS* class member."

As with the previously discussed letter to the Attorney General, the applicant provides no explanation as to *why*, if these documents truly date from 1989 and 1995, respectively, he did not submit them with his LIFE application. In his appeal the applicant asserts simply, and without elaboration, that the documents were "not available" at the time he filed his application. Citizenship and Immigration Services (CIS) has no record of the I-687 and class membership determination forms being filed by the applicant prior to March 25, 2003, the date of the appeal in the instant proceeding, and the applicant has furnished no evidence, such as postal receipts, that either form was sent to INS prior to October 1, 2000, as required to be considered as a timely filed claim for class membership under the LIFE Act. With respect to the interview notice, CIS has no record of having sent it to the applicant in 1995, or of interviewing him in 1996. The applicant has provided no details about the alleged interview, or even confirmed that it took place. Moreover, the applicant has not explained why, if the interview notice was truly sent to him in 1995, he has only submitted a photocopy thereof to this office, rather than the original.

For all of the reasons discussed above, it is concluded that *none* of the pertinent photocopies submitted by the applicant – *i.e.*, the letter to the Attorney General, the Form I-687, the Form for Determination of Class Membership in *CSS v. Meese*, and the interview notice – is a true copy of an authentic document.

The evidence of record, therefore, does not establish that the applicant filed a written claim for class membership prior to October 1, 2000, in one of the requisite legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*, as required under section 1104(b) of the LIFE Act.

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.