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U.S. Citizenship
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LA

APR 07 2004

FILE: [REDACTED] Office: NATIONAL BENEFITS CENTER Date:

IN RE: Applicant: [REDACTED]

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 (200), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 states that the applicant has submitted sufficient documentary evidence establishing he applied for class membership prior to October 1, 2000. Counsel provides affidavits from two acquaintances who attest to the applicant's residence in the United States since June 1981 along with copies of documents that were previously submitted.

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

In support of his LIFE application, the applicant submitted the following documentation:

- 1) a notice dated November 18, 1988, from the New York City office of Immigration and Naturalization Services (now Citizenship and Immigration Services [CIS]) acknowledging receipt from the applicant of a Form I-700, Application for Temporary Resident Status as a Special Agricultural Worker under Section 210 of the Immigration and Nationality Act (INA);
- 2) a photocopy of a Form I-797 Notice of Action dated November 2, 1994 from the Vermont Service Center informing the applicant that his \$70.00 money order was being returned to him because his application did not require a fee;
- 3) a Form I-797 Notice of Action dated March 1, 1996 from the Vermont Service Center informing the applicant that the motion and corresponding fee that he submitted to reopen a previously denied application for temporary resident status under either section 210 or 245A of the INA had been rejected.; and
- 4) a Form I-797 Notice of Action dated May 16, 1996 from the Vermont Service Center informing the applicant that the motion and corresponding fee that he submitted to reopen a previously denied application for temporary resident status under either section 210 or 245A of the INA had been rejected.

However, while such documents could possibly be considered as evidence of having made a written claim for class membership, none of these submissions include a CIS Alien Registration Number (A-number, or file number) for the applicant, as required in 8 C.F.R. § 245.14(b). Furthermore, there is no record of CIS generating the notices listed above or receiving a Form I-700 application allegedly submitted by the applicant. Clearly, the applicant did not file the Form I-700 application. If he had, a file would have been created at that point. As he did not file the Form I-700 application, he could not have filed a motion to reopen the application. The

photocopies the applicant has submitted regarding the application and motion cannot be authentic. Moreover, the fact that the applicant did not submit either originals or photocopies of the application and corresponding money orders which were purportedly rejected by CIS and returned to him only serves to undermine the credibility of his claim to have submitted such application.

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).

In response to a Notice of Intent to Deny issued on October 15, 2002, the applicant submitted a photocopied Form for Determination of Class Membership in *CSS v. Meese* purportedly signed by the applicant on January 10, 1991; a photocopied Form I-687 application for status as a temporary resident under section 245A of the INA signed by the applicant on November 20, 1997; a Legalization Front-Desk Questionnaire allegedly signed by the applicant on February 10, 2000; a photocopied letter dated July 10, 2000 supposedly sent to former Attorney General Reno, claiming the applicant was a class member under the *CSS v. Meese* class action lawsuit; and a photocopied Application for Employment Document, Form I-765 dated May 30, 2002.

The applicant, however, provides no explanation whatsoever as to *why*, if he truly had these documents in his possession the entire time, he did not submit them with his LIFE application. Applicants were instructed to provide qualifying evidence *with* their applications and the applicant did include other supporting documentation with his LIFE Act application. In addition, the alien has not provided any evidence, such as a postal receipt, which might help demonstrate that the letter dated July 10, 2000 was actually sent to the Attorney General as alleged. Given the importance of the letter, it would be reasonable to conclude that the alien would have sent it via certified or registered mail.

It is further noted that the applicant is one of many aliens residing in New York City who have furnished such questionable photocopied documents with their LIFE applications. None of these applicants had pre-existing files with CIS prior to filing their LIFE applications, in spite of the fact that they all claim to have previously filed applications or questionnaires with CIS. These factors raise even more serious questions regarding the authenticity of the application and supporting documentation in the instant case.

As previously mentioned in the director's Notice of Decision, the self-serving statements, the affidavits submitted throughout the application process, the employer declaration and the applicant's photocopied passport may attempt to establish the applicant's identity and residency, but they do not serve as evidence of a claim to class membership.

It is concluded that the photocopies the applicant has submitted do not establish that he actually filed a written claim for class membership in *CSS/LULAC*, as required in section 1104(b) of the LIFE Act. For failure to meet this statutory requirement, 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.