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U.S. Department of Homeland Security
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Washington, DC 20536



U.S. Citizenship
and Immigration
Services



FILE:



Office: NATIONAL BENEFITS CENTER

Date: **APR 20 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:



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.

Robert P. Wiemann, Director
Administrative Appeals Office

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**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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 three acquaintances who attest to the applicant's residence in the United States since December 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.

Furthermore, under section 1104(c)(2)(B)(i) of the LIFE Act each applicant for permanent resident status must establish that he or she entered and commenced residing in the United States *prior to January 1, 1982*. On the applicant's Form G-325A Biographic Information, the applicant, however, indicated that he resided in his native Bangladesh from June 1967 until July 1985. Given the applicant's inability to meet the statutory requirement of residence in the United States since before January 1, 1982, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

Accordingly, the issue of whether the applicant applied for class membership in the *CSS-LULAC* lawsuit is moot. Nevertheless, give the nature of the documentation the applicant submitted on this issue, some discussion is warranted.

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

- 1) a Form I-797, Notice of Action dated October 3, 1991 from the Vermont Service Center informing the applicant that a previously scheduled interview to determine eligibility for class membership under CSS/LULAC would be cancelled and rescheduled for another date;
- 2) a Form I-797, Notice of Action dated November 2, 1994 from the Vermont Service Center informing the applicant that his check/money order was being returned to him because his application did not require a fee; and
- 3) a Form I-797, Notice of Action dated February 29, 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 Immigration and Nationality Act (the Act) had been rejected.

While such documents could possibly be considered as evidence of having made a written claim for class membership, none of these submissions include an Alien Registration Number (A-number, or file number) for the applicant, as required in 8 C.F.R. § 245.14(b). There is no record of the Immigration and Naturalization Service, now Citizenship and Immigration Service (CIS) generating the photocopied notices listed above allegedly submitted by the applicant. Further, there is no record of the applicant filing either a Form I-700 or Form I-687

application, and therefore he could not have filed a motion to reopen the application. The photocopied notices the applicant has submitted cannot be authentic.

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 September 30, 2002, the applicant submitted a letter requesting an exemption from submitting additional evidence based on humanitarian grounds; a photocopied Form I-687 application for status as a temporary resident under section 245A of the Act signed by the applicant on October 7, 1987; a Legalization Front-Desking Questionnaire allegedly signed by the applicant on October 14, 1999; and photocopies of documents and applications that were previously provided.

The applicant, however, provides no explanation whatsoever as to *why*, if he truly had the Form I-687 application and questionnaire 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.

It is further noted that the applicant is one of many aliens 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.

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, and because the applicant acknowledges that he did not enter and begin residing in United States prior to January 1, 1982, as required in section 1104(c)(2)(B)(i) of the Act, 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.