

**PUBLIC COPY**

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

*Handwritten initials*



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

**U.S. Citizenship  
and Immigration  
Services**

[Redacted]

FILE: [Redacted]

Office: Missouri Service Center

Date: **APR 21 2004**

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 (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.

*Handwritten signature of Robert P. Wiemann*

Robert P. Wiemann, Director  
Administrative Appeals Office

Page 2

**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 asserts that he filed a legalization questionnaire in Washington, D.C. on May 14, 2000, which was before the deadline of October 1, 2000 deadline to apply for class membership. The applicant also asserted that he originally tried to file an application "when the amnesty was open," and that he subsequently tried again in December 1995 to file a claim for class membership in the C.S.S. lawsuit, *infra*, but "the I.N.S. officer refuse[d] to take the documents . . . with [the] excuse that C.S.S. was over."

The appeal was filed on behalf of the applicant by [REDACTED] who filed a Form G-28, Notice of Appearance as Attorney or Representative. [REDACTED] acknowledged on the form that he is neither an attorney nor an accredited representative (within the meaning of 8 C.F.R. § 292.1), but stated that he was an "immigration consultant for over 35 years." As specified in 8 C.F.R. § 292.1(a)(3)(ii), an applicant may be represented by "[a]ny reputable individual of good moral character, provided that [h]e is appearing without direct or indirect remuneration and files a written declaration to that effect." (Emphasis added.) No such written declaration has been filed in this case by Mario Carretero. Accordingly, this decision will be sent only to the applicant.

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.

In the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership in a legalization class-action lawsuit 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 legalization during the original filing period of May 5, 1987 to May 4, 1988. See 8 C.F.R. § 245a.10.

Along with his LIFE application, the applicant provided photocopies of the following pertinent documentation:

- 1) a Form I-687 application for status as a temporary resident under section 245A of the Immigration and Nationality Act (INA), signed by the applicant and dated December 16, 1987;
- 2) a Legalization Questionnaire, signed by the applicant and dated May 14, 2000, in which the applicant asserted that he tried to file an "application for legalization during the original filing period of May 5, 1987 to May 4, 1988, but "was disqualified" by the INS officer because of his "departure to Mexico, and that he later went to the local INS office (in Chicago) but was told by "the officer in the window . . . that . . . CSS was canceled; and
- 3) an undated declaration by the applicant "for use and consideration by the Immigration and Naturalization Service in connection with my application under

section 245[A], and in the matter of classification under *LULAC vs. INS* or *CSS vs. Meese*, in which the applicant asserted that he applied for legalization at an INS office in Chicago on December 17, 1987, but “was disqualified due to my departure” to Mexico.

Citizenship and Immigration Services (CIS), successor to the Immigration and Naturalization Service (INS), has no record of receiving any of the above three documents from the applicant until the instant LIFE application was filed on October 11, 2002. Even if the applicant did attempt to file an I-687 form in December 1987 and was “disqualified” by the INS officer, that “front-desking” in 1987 would not provide grounds for late legalization under the LIFE Act. To be eligible for permanent resident status under section 1104(b) of the LIFE Act the applicant must show that after his “front-desking” he filed a claim for class membership in one of the legalization lawsuits – in this case *CSS* – sometime before October 1, 2000. The applicant has not furnished any evidence, such as a postal receipt or an acknowledgement letter from the INS, that the Form I-687 was filed with the INS on a date before October 1, 2000. The same applies to the other two documents. Though the Legalization Questionnaire is dated May 14, 2000, the applicant has not submitted a postal receipt, an acknowledgement letter, or other evidence of its submission to the INS before October 1, 2000. As for the applicant’s undated declaration, there is likewise no evidence that it was submitted to the INS before October 1, 2000. As indicated above, INS (now CIS) has no record of receiving any of these three documents from the applicant until the instant LIFE application was filed in October 2002. That was two years after the statutory deadline to file a claim for class membership in *CSS* or one of the other legalization lawsuits.

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 has furnished no further evidence on appeal that any of the three documents discussed above was filed with the INS before October 1, 2000. Thus, none of them can be considered evidence of a timely, and therefore legally valid, claim for class membership in *CSS*.

The applicant has submitted one additional document on appeal pertaining to the issue of a claim for class membership. It is a photocopied form letter from the INS, dated October 10, 1996, with the handwritten notation: “Please find enclosed your packet *CSS* as the program is no longer available.” The space on the letter designated for “officer initials,” however, is blank. Moreover, the letter does not identify the addressee or the address to which it was sent. Therefore, it is impossible to verify that the letter was actually issued by the INS or that the applicant was the intended recipient. Nor has the applicant provided any details about the context of the alleged letter which could lend it some credibility. For example, the applicant has not asserted anywhere in the record that he filed a claim for class membership in *CSS* during 1996 which could have prompted the subject letter from INS. He does allege that he was turned away in December 1995 by the INS office in Chicago, but indicates in his appeal that “the I.N.S. officer refuse[d] to take the documents.” Thus, the INS would not have had a “packet [of] *CSS*” materials from that visit to return to the applicant ten months later, in October 1996. Furthermore, the applicant, provides no explanation as to *why*, if he truly had an INS letter in his possession since 1996, he did not submit it originally with his LIFE application. Applicants were instructed to provide qualifying evidence *with* their applications and the applicant did include other documentation with his LIFE application. For all of these reasons it is concluded that the photocopied form letter from the INS dated October 10, 1996 is *not* a true copy of an authentic document.

As indicated by the director in the Notice of Decision, the applicant’s wife, [REDACTED] is a class member. For the applicant to be eligible to adjust status as a derivative beneficiary

under the LIFE Act, he and his spouse must have been married on the date the spouse was "front-desked" during the original filing period (May 5, 1987 to May 4, 1988). See 8 C.F.R. § 245a.10. The Form G-325A (Biographic Information) submitted by the applicant, however, shows that he and his wife were not married until August 27, 1988. Thus, the marital relationship did not exist at the time the applicant's spouse originally attempted to file her application for legalization. Under 8 C.F.R. § 245a.10, therefore, the applicant is ineligible to adjust status derivatively through his wife.

For all of the reasons discussed above, the record fails to establish that the applicant filed a written claim for class membership prior to October 1, 2000 in *CSS*, or either of the other legalization lawsuits, *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(b) the LIFE Act.

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