



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE:

[Redacted]

Office: NATIONAL BENEFITS CENTER

Date:

APR 27 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

PUBLIC COPY
*identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy*

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.

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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 was reopened and denied again by the Director, National Benefits Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In both decisions, the directors 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 of the initial decision, the applicant affirmed that he had filed for class membership prior to October 1, 2000, and indicated he was submitting as evidence a Form I-687 along with a Form for Determination of Class Membership.

The applicant does not respond to the subsequent decision.

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.

Along with his application, the applicant submitted a photocopy of a letter dated *September 12, 2000*, supposedly sent to former Attorney General Janet Reno, requesting that the applicant be registered in the CSS v. Meese case. Pursuant to 8 CFR § 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 provided by the applicant does not constitute a "form" and does not equate to the actual forms listed in 8 CFR § 245a.14, although that regulation also states other "relevant documents" may be considered. However, the very brief letter does not even begin to imply that the applicant could qualify for CSS v. Meese class membership because it does not provide any relevant information upon which a determination could be made. It must also be noted that the applicant is one of many aliens who furnished such identically-worded letters in the same typeface (virtually all dated from September 14th to September 25th, 2000) with their LIFE applications. It is further noted that all of these aliens had their LIFE applications prepared by M.E. Real of Professional Tax Service, Santa Maria, California. In addition, none of these aliens have 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 would be reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail.

In rebuttal to the initial notice of intent to deny, the applicant provided a photocopy of yet another purported letter to the Attorney General, this one dated *September 21, 2000*. There would be no logical reason for an applicant to send *two consecutive letters* to Attorney General Reno within less than 10 days of one another, each requesting class membership in the CSS v. Meese class-action legalization lawsuit. This subsequent request by the applicant to the Attorney General serves to further undermine the credibility of the applicant's claim and documentation.

Doubt cast on any aspect of the evidence 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. See *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

On appeal of the initial decision, the applicant affirmed that he had filed for class membership prior to October 1, 2000, and indicated he was submitting as evidence a previously-completed Form I-687 application along with a Form for Determination of Class Membership. The applicant asserted that he had failed to submit these documents initially because they had purportedly been stored in Mexico at the time and were therefore unavailable. However, this explanation is less than credible in that the applicant was able to accompany his LIFE application with *other* supporting documentation without indicating that he possessed *additional* documentation pertinent to his claim to class membership. Moreover, an examination of the record of proceedings fails to disclose the existence of either the alleged Form I-687 or the determination form. Nor is there any indication in the administrative or electronic records of Citizenship and Immigration Services (CIS) that either document was ever sent by the applicant or received by this agency.

Given his failure to credibly establish that he filed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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