



U.S. Citizenship
and Immigration
Services

Handwritten initials or mark, possibly 'L' and 'A'.

[Redacted]

FILE: [Redacted]

Office: NATIONAL BENEFITS CENTER

Date:

IN RE: Applicant: [Redacted]

APR 28 2004

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

INSTRUCTIONS:

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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 your case 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.

Robert P. Wiemann, Director
Administrative Appeals Office

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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 (AAO) on appeal. The appeal will be sustained.

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, the applicant reiterates his claim to have previously filed for class membership. The applicant includes photocopies of previously submitted documentation as well as new documentation in support of his appeal.

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) (CSSS), *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.

The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. See 8 C.F.R. § 245a.12(e). An alien applying for adjustment of status under section 1104 of the LIFE Act has the burden of proving his or her eligibility by a preponderance of the evidence.

On his LIFE Act application, the applicant indicated that he submitted a legalization application for temporary residence under section 245A of the Immigration and Nationality Act (INA) to the Immigration and Naturalization Service, or the Service, (now Citizenship and Immigration Services, or CIS) in December 1990. In support of this contention, the applicant submitted photocopies of the following documents with his LIFE Act application:

- a completed Form I-687 legalization application that is signed by the applicant and dated December 29, 1990;
- an American Express money order that is dated December 19, 1990, and made payable to the Service in the amount of \$185.00;
- an United States Postal Service customer receipt for certified mail in the amount of \$2.20 that contains a December 29, 1990 postal cancellation stamp, a hand written notation bearing the address of the Service's Vermont Service Center, and identification number [REDACTED];
- a signed United States Postal Service postal return receipt dated December 31, 1990 that contains the applicant's name and address on one side, and on the opposite side a print stamp bearing the Vermont Service Center's address and hand written notations bearing the same address and identification number [REDACTED] and,

- a completed Service fingerprint card bearing biographic information relating to the applicant and his signature.

In response to the notice of intent to deny the applicant submitted a statement rebutting the director's determination that the record did not contain evidence to demonstrate that he filed a written claim to class membership. The applicant claimed that he was front-desked (informed that he was not eligible for legalization), in that he attempted to file a legalization application at the Service office in Manhattan during the 1987-1988 application period, but was turned away by a Service employee. The applicant contended that he subsequently learned he might be eligible for membership in one of the legalization class-action lawsuits because he had been front-desked. The applicant declared that he sent the Form I-687 legalization application, corresponding fee, and supporting documents to the Vermont Service Center by certified mail on December 29, 1990, in order to claim class membership. The applicant included the same photocopied documents discussed above with his response.

While the director did note that the applicant submitted a photocopy of a Form I-687 legalization application in the subsequent denial notice, no mention was made of the other supporting evidence discussed above or the rebuttal statement made in response to the notice of intent. If the director had questions regarding the credibility of any supporting documents provided by the applicant, he could have requested that originals of photocopied documents be submitted. The director did not establish that the information in the supporting documents was inconsistent with the claims made either on the application or in the rebuttal statement, or that such information was false. The applicant's own testimony taken in context with supporting evidence in certain cases can logically meet the preponderance of evidence standard. As stated in *Matter of E--M--*, 20 I. & N. Dec. 77 (Comm. 1989), when something is to be established by a preponderance of evidence, the applicant only has to establish that the proof is probably true. Clearly, the supporting documents and the applicant's rebuttal statement are relevant documents under 8 C.F.R. § 245a.14. As such, the applicant's claim to class membership must be considered in light of such testimony and evidence.

The independent and contemporaneous evidence contained in the record supports the applicant's assertion that he put forth a claim to class membership by sending the Form I-687 legalization application, corresponding fee, and supporting documents to the Vermont Service Center by certified mail on December 29, 1990. Therefore, it must be concluded that the applicant has demonstrated that he filed a written claim to class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000.

It must now be determined whether the applicant is otherwise eligible for permanent resident status under section 1140 of the LIFE Act. Accordingly, the matter will be forwarded to the appropriate district office for further processing and adjudication of the LIFE Act application.

ORDER: The appeal is sustained. The director shall forward this matter to the proper district office for the completion of adjudication of the application for permanent residence.