

U.S. Citizenship
and Immigration
Services



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FILE: [Redacted]

Office: National Benefits Center

Date: AUG 03 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. All documents have been returned to the office that originally decided your case. 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.

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 on appeal before the Administrative Appeals Office. The appeal will be dismissed.

The directors concluded that 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.

On appeal, the applicant stated that because he wanted to make a timely submission, he filed his application even though he did not have any of his documents such as a copy of his Form I-687 in his possession. The applicant further stated that he wished to have the opportunity to present them and to be given work authorization during this process.

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.

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 applicant failed to submit any documentation addressing this requirement when the application was filed.

In rebuttal to a notice of intent to deny dated September 25, 2002, the applicant submitted a photocopy of a letter to Attorney General Janet Reno, dated September 22, 2000, in which the applicant purportedly sought to be registered as a class member in *CSS vs. Meese*. Pursuant to 8 C.F.R. § 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 in this case does not constitute a "form" and does not equate to any of the actual forms listed in 8 C.F.R. § 245a.14, although the regulation states that other "relevant documents" may also be considered. The applicant's brief letter, however, does not even begin to imply that he could qualify for *CSS* class membership because it does not provide any relevant information upon which a determination could be made.

In rebuttal to a second notice of intent to deny dated July 2, 2003, the applicant provided a photocopy of a Form I-687 Application for Status as a Temporary Resident under section 245A of the INA allegedly signed by the applicant on January 12 1996 and a photocopy of a Form for Determination of Class Membership in *CSS v. Meese* allegedly signed by the applicant on January 12, 1996.

Citizenship and Immigration Services (CIS), successor to the Immigration and Naturalization Service (INS), has no record of receiving the above three documents from the applicant until the instant LIFE application was filed on May 28, 2002. To be eligible for permanent resident status under section 1104(b) of the LIFE Act the applicant must show that after failing to file during the May 5, 1987 and May 4, 1988 period, he filed a claim for class membership in one of the legalization lawsuits 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 any of the above documents were filed with the INS on a date before October 1, 2000. As indicated above, CIS has no record of receiving these documents from the applicant until the instant LIFE application was filed in December 2002, long after the statutory deadline to file a claim for class membership one of the legalization lawsuits. Thus, neither of them can be considered evidence of a timely, and therefore legally valid, claim for class membership.

It must be noted that the applicant is one of many aliens who furnished identically worded letters (virtually all bearing dates in September 2000) only after receiving letters of intent to deny, rather than simultaneously with their LIFE applications. All of these aliens had their LIFE applications prepared by M. E. Real of a California company called Professional Tax Service, Inc. *None* of these aliens has 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 is reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail. These factors raise grave questions about the authenticity of the letter that the applicant purportedly sent to the Attorney General.

Moreover, the applicant does not explain *why*, if this letter, the Form I-687, and the Form for Determination of Class Membership in *CSS v. Meese* were truly existent, they were not in his possession and were not submitted, as applicants were advised to provide evidence *with* their applications.

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).

It is determined that the evidence of record does not establish that the applicant filed a written claim for class membership in *CSS*, or one of the other legalization lawsuits, *LULAC* or *Zambrano*, before October 1, 2000, as required under section 1104(b) of the LIFE Act.

Accordingly, 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.