



U.S. Citizenship
and Immigration
Services

22

[REDACTED]

FILE:

[REDACTED]

Office: NATIONAL BENEFITS CENTER

Date: **AUG 10 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 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

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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, National Benefits Center, and is now before the Administrative Appeals Office (AAO) 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, the applicant provides copies of previously submitted and new documents to support his claim that he filed a written claim for class membership prior to October 1, 2000.

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), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993). 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. The regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

On his LIFE Act application, the applicant indicated that he filed a claim for *CSS/LULAC* class membership on June 21, 1991. The applicant included photocopies of the following documents with his LIFE Act application:

- a Form I-687 legalization application that is signed by the applicant and dated June 21, 1991, and;
- a "Form for Determination of Class Membership in *CSS v. Meese*" that is signed by the applicant and dated June 21, 1991.

It must be noted that in both the Form I-687 legalization application and the determination form, the applicant specified that his only absence from the United States in the period from January 1, 1982 to May 4, 1988, occurred when he visited his children in Mexico from December 20, 1987 to December 27, 1987.

These documents are listed in 8 C.F.R. § 245a.14 as examples of documents which may be furnished in an effort to establish that an alien had previously applied for class membership. Although both the Form I-687 and the determination form are dated June 21, 1991, the record contains no evidence that any of these documents were submitted to the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Service, or CIS) prior to the filing of the LIFE Act application on March 6, 2003.

On appeal, the applicant provides copies of both the Form I-687 and the determination form, as well as photocopies of the following documents:

- an undated form that is signed by Service officer, [REDACTED] indicating that the applicant is not a member of the *CSS* or *LULAC* subclass and that employment authorization is not to be granted;
- a Form I-72 Notice with attachment from the Service that is dated September 10, 1993 and addressed to the applicant, indicating that he had failed to establish class membership under *CSS/LULAC* because he admitted under oath that he was sick and out of the United States seeking treatment from

his doctor in Mexico on May 4, 1988 and, therefore, he did not apply for legalization on or before May, 4, 1988;

- a notice from the Service's Dallas, Texas District Office dated December 3, 1993 and addressed to the applicant, informing him that his Freedom of Information Act request had been received, as well as potential fees that may be incurred and the time frame needed to fulfill the request; and
- a Notice of Action from the Service dated June 14, 1995, informing the applicant that individuals who had previously filed applications and been denied class membership in CSS would be re-interviewed for another determination of eligibility.

The photocopied Service documents such as that the applicant provides may be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. § 245a.14(d). However, all of the Service documents submitted on appeal except the undated form signed by Service officer, [REDACTED], contain typewritten notations including but not limited to the applicant's name, address, type of application, date, and "No File Number." These typewritten notations are the same size and style of font throughout all of the documents, but do not conform to any of the sizes and styles of printing utilized in each of these respective documents.

As has been previously noted, the applicant specified that his only absence from this country in the period from January 1, 1982 to May 4, 1988, occurred when he visited his children in Mexico from December 20, 1987 to December 27, 1987 on both the determination form and the Form I-687 legalization application. This information is at variance with information cited as the basis for the applicant being denied CSS class membership in the Form I-72 Notice dated September 10, 1993. Specifically, this notice stated that the applicant failed to establish class membership under *CSS/LULAC* because he admitted under oath that he was sick and out of the United States seeking treatment from his doctor in Mexico on May 4, 1988 and, therefore, he did not apply for legalization on or before May, 4, 1988. The applicant did not put forth any explanation to resolve this discrepancy and failed to state any reason why this absence was omitted from both the Form I-687 and the determination form.

In addition, the applicant offered no explanation as to *why*, if he truly had these documents referencing his purported claim to class membership in his possession since at least June 1995, he did not submit such documents with his LIFE Act application. Applicants were instructed to provide qualifying evidence *with* their applications and the applicant did include other supporting documentation with his LIFE Act application. A review of relevant records reveals no evidence that the applicant had a pre-existing file prior to filing of his LIFE Act application on March 6, 2003, in spite of the fact that he claims to have been issued Service documents relating to class membership beginning in 1993. These factors raise serious questions regarding the authenticity and credibility of the supporting documentation, as well as the applicant's claim that he filed for class membership. Given these circumstances, it is concluded that photocopied Service documents provided by the applicant in support of his claim to class membership are of questionable probative value.

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).

The applicant has failed to submit documentation which credibly establishes his having filed a timely written claim for class membership in one of the aforementioned legalization class-action lawsuits. 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.