



U.S. Citizenship
and Immigration
Services

12

[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 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.

Robert P. Wiemann, Director
Administrative Appeals Office

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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. 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.

On appeal the applicant asserts that he filed a timely application for class membership in the “CSS/LULAC” lawsuit, *infra*, that he submitted documentation thereof with his LIFE application, and that he was supplementing that evidence with additional documentation of his class membership claim on appeal.

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.

With his LIFE application (Form I-485) the applicant submitted photocopies of: (1) a Form I-687, Application for Status as a Temporary Resident (under Section 245A of the Immigration and Nationality Act), signed by the applicant and dated February 12, 1988, (2) a Form for Determination of Class Membership in *CSS v. Meese*, signed by the applicant and dated May 17, 1993, and (3) a Legalization Front-Desk Questionnaire, signed by the applicant and dated March 4, 1999. The applicant has not submitted any evidence, such as postal receipts or acknowledgement letters from the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), that the foregoing documents were actually submitted to the INS in 1988, 1993, and 1999, respectively. The applicant had a pre-existing A-file dating from April 2, 1986, according to CIS records. Any subsequent claim for class membership in *CSS*, therefore, would almost certainly have been incorporated in the applicant’s file. But there was no such class membership claim, or even a reference to *CSS*, in the applicant’s A-file until the instant LIFE application was filed on March 17, 2003. That was long after the statutory deadline of October 1, 2000 to file a claim for class membership in *CSS*, or either of the other legalization lawsuits.

The applicant furnished no further evidence of a timely claim for class membership in response to the director’s Notice of Intent to Deny. On appeal, however, the applicant has submitted some additional photocopied materials. They include, *inter alia*, (1) a notice to the applicant from an INS office in New York City, dated November 18, 1988, acknowledging receipt of an Application for Temporary Resident Status as a Special Agricultural Worker (Form I-700), (2) a Notice of Action (Form I-797) to the applicant, dated November 3, 1991, advising that a “scheduled interview to determine eligibility for class membership in *CSS/LULAC* is cancelled, and will be rescheduled,” (3) a Notice of Action (Form I-797) to the applicant, dated November 2, 1994, advising that a check was being returned because the application (unidentified) did not require a fee, (4) a Notice of Action (Form I-797) to the applicant, dated May 20, 1996, advising that his legalization application had been denied, an appeal dismissed, and that no motions could be filed on legalization cases filed under section 245A or section 210 of the Immigration and Nationality Act, and (5) an undated excerpt from a stipulation and order of settlement and dismissal of a class-action lawsuit involving the applicant against the INS.

The first, fourth and fifth documents, even if authentic, do not relate to any claim for class membership in the *CSS* or *LULAC* class-action lawsuits. Rather, they pertain to an application for temporary resident status as a special agricultural worker (SAW) under section 210 of the Immigration and Nationality Act (INA), which was enacted as part of the Immigration Reform and Control Act of 1986. An application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits, as required under section 1104(b) of the LIFE Act. Furthermore, the LIFE Act contains no provision allowing for the reopening and reconsideration of a previously denied application for temporary resident status as a special agricultural worker under section 210 of the INA. As for the third document, it is unclear what it pertains to because the application referenced in generic language on the notice is unidentified.

Only the second document – the INS Notice of Action dated November 3, 1991 – relates to a claim for class membership in a legalization lawsuit. Several factors cast doubt on the document's authenticity, however. For one thing, the space on the Form I-797 for the applicant's A-number is blank, despite the fact that the applicant was issued an A-number by the INS five years earlier, in 1986. Moreover, if the notice had actually been issued to the applicant in 1991, a record thereof would almost certainly have been incorporated in his pre-existing A-file. But a copy of the notice was *not* in the applicant's file at the time of his LIFE application in 2003. Furthermore, the applicant has not explained why, if he received the subject Notice of Action in 1991, he did not submit a photocopy thereof *with* his LIFE application. LIFE applicants were instructed to submit supporting documentation with their applications, and the applicant in this case did submit other materials with his application. The Notice of Action regarding the *CSS/LULAC* interview was not submitted with the LIFE application, however, or even in response to the Notice of Intent to Deny. Not until the appeal stage of this proceeding did the applicant submit the subject document. For all of these reasons, the AAO concludes that the photocopied Notice of Action dated November 3, 1991 is not persuasive evidence that the applicant filed a timely claim – *i.e.*, prior to October 1, 2000 – for class membership in *CSS* (or *LULAC*).

Viewing the record in its entirety, the AAO determines that the applicant has failed to establish that he filed a written claim for class membership in *CSS*, or either 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.