



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: National Benefits Center

Date:

AUG 25 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:

[REDACTED]

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

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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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 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, counsel asserts that the applicant qualifies for LIFE legalization because he presented an affidavit of circumstances (questionnaire) to the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), before the February 2, 2001 deadline printed on the document, claiming class membership in the lawsuit of *CSS v. Meese*.

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, the applicant submitted a photocopy of a hand-printed but unsigned and undated Form I-687 Application for Status as a Temporary Resident. He also submitted a copy of a Legalization Front-Desking Questionnaire dated October 9, 2000, in which he claims that an INS officer in Houston, Texas, had refused to accept (*i.e.*, "front-desked") his application for legalization under the Immigration Reform and Control Act of 1986 (IRCA) when he tried to file it during IRCA's one-year filing period from May 5, 1987 to May 4, 1988. The applicant's file does include the *original* of the front-desking questionnaire, which was stamped as received by the INS Vermont Service Center on October 23, 2000. In order to qualify for late legalization under the LIFE Act, however, an alien must demonstrate that he or she had filed a written claim for class membership in one of the legalization lawsuits prior to October 1, 2000.

In response to the director's Notice of Intent to Deny (NOID) dated November 26, 2002, the applicant asserts that he filed a Legalization Questionnaire with the Vermont Service Center (VSC) prior to the February 2, 2001 deadline. This, he indicates, constitutes a written claim to class membership in one of the LIFE Legalization lawsuits and therefore entitles him to apply for benefits under Section 1104 of the LIFE Act.

The questionnaire and deadline referred to in response to the November 26, 2002 NOID and by counsel on appeal are related to a separate program designed to identify applicants who attempted to apply for legalization during the period of May 5, 1987 to May 4, 1988, but whose applications were rejected or "front-desked." Under this program, the questionnaire was reviewed by the VSC to determine whether the front-

desking claim was valid. If it was found to be valid, the applicant was instructed to file a Form I-687, application for temporary residence, with the Texas Service Center. The application was then adjudicated as though filed during the initial filing period.

Submitting a questionnaire to the VSC under this program is not the equivalent of filing a written claim to class membership under one of the LIFE Act related lawsuits, nor does it alter the requirement that the written claim must have been filed prior to October 1, 2000 as stated in the regulations at 8 C.F.R. § 245a.10.

In further response to the director's NOID, the applicant submitted photocopies of a second type-written Form I-687 purportedly signed by him on April 24, 1997 and photocopy of a Form for Determination of Class Membership in *CSS v. Reno* purportedly signed by him on April 24, 1997. CIS has no record of receiving the second Form I-687 or the form for determination of class membership from the applicant until the instant LIFE application was filed on May 30, 2002. The applicant has not furnished any evidence, such as a postal receipt or an acknowledgement letter from the INS, that the above forms were filed with the INS on a date before October 1, 2000.

The applicant does not explain *why*, if the second type-written Form I-687 and the form for determination of class membership in *CSS v. Reno* listed above were in his possession, he did not submit them with his front-desking questionnaire that he sent to the INS Vermont Service Center or with his LIFE application, as applicants were advised to provide evidence *with* their applications.

The applicant has furnished no further evidence on appeal that any of the documents discussed above were filed with the INS before October 1, 2000. Thus, none of them can be considered evidence of a timely, and therefore legally valid, claim for class membership.

Based on the entire record in this case, it is clear that the applicant has failed to established that he filed a written claim for class membership in *CSS*, or either of the other two legalization lawsuits, before October 1, 2000, as required to be eligible for legalization 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.