



U.S. Citizenship
and Immigration
Services

12

[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. 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

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, the applicant asserts that he 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 three of four pages 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 20, 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 December 4, 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 September 11, 2002, the applicant submitted a statement asserting that he qualified as having filed for class membership under section 1104 of the LIFE Act because he submitted the Legalization Front-Desking Questionnaire before February 2, 2001, as the form specifically instructed. The applicant claimed that the questionnaire (a) was listed in the Federal Register as one of the documents that could demonstrate an applicant's eligibility for class membership in one of the legalization lawsuits, (b) was therefore *ipso facto* proof of the applicant's written claim for class membership, and (c) had its own deadline for submission which the applicant satisfied.

In response to the September 11, 2002 NOID, counsel asserts that the applicant filed a Legalization Questionnaire with the Vermont Service Center (VSC) prior to the February 2, 2001 deadline. This, counsel indicates, constitutes a written claim to class membership in one of the LIFE Legalization lawsuits and therefore entitles the applicant to apply for benefits under Section 1104 of the LIFE Act.

The questionnaire and deadline referred to 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.

Additionally, in response to the director's NOID, the applicant resubmits a photocopy of his Legalization Front-Desking Questionnaire. He asserts that the document constitutes conclusive evidence of his written claim for class membership in CSS because it is listed both in 8 C.F.R. § 245a.14(a) and on a flyer the INS sent to the applicant entitled "Examples of a Written Documentation for Claim for Class Membership." The applicant also restates his previous argument that the questionnaire was sent to the Vermont Service Center prior to the February 2, 2001 deadline printed on the form. As previously discussed, however, the statutory deadline to file a written claim for class membership in one of the legalization lawsuits was October 1, 2000. *See* section 1104(b) of the LIFE Act. The applicant's Legalization Front-Desking Questionnaire did not meet that statutory deadline because it was not sent to the Vermont Service Center until December 4, 2000.

Also, in response to the director's NOID, the applicant submitted photocopies of a second type-written Form I-687 purportedly signed by him on November 14, 1995 and photocopy of an Affidavit for Determination of Class Membership in League of United Latin American citizens v. INS (LULAC) purportedly signed by him on November 14, 1995. CIS has no record of receiving either of the above two documents from the applicant until the instant LIFE application was filed on May 13, 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 hand-printed and type-written Forms I-687 and the Affidavit for Determination of Class Membership in League of United Latin American citizens v. INS (LULAC) 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 why he did not send the typewritten I-687 and the affidavit 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 establish 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.