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Washington, DC 20529



U.S. Citizenship
and Immigration
Services



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FILE:



Office: NATIONAL BENEFITS CENTER

AUG 25 2004
Date:

IN RE:

Applicant:



PETITION: 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, 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 claims to have sent a request for class membership to the Washington, D.C. office of the U.S. Immigration and Naturalization Service or INS (now Citizenship and Immigration Services, or CIS.)

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.

Along with his LIFE application, the applicant provided the following:

- a Form I-687, Application for Status as Temporary Resident under Section 245A of the Immigration and Nationality Act, dated March 28, 1988; and
- an undated affidavit that described his purported attempts to apply for legalization during the actual filing period of May 5, 1987 to May 4, 1988.

The Form I-687 application was purportedly completed January 25, 1988. This date would have been well within the May 5, 1987 to May 4, 1988 application period for applying for temporary residence (legalization) under the Immigration Reform and Control Act (IRCA). While this photocopied application might serve as evidence of being "front-desked" or otherwise discouraged or prevented from applying for legalization under section 245A of the Immigration and Nationality Act (INA), it does *not* constitute an application for class membership under any of the aforementioned class-action lawsuits.

Moreover, the Form I-687 and the affidavit were completed and signed in ink, and the Legalization Questionnaire bears a "live" signature in ink. Thus, these are original documents, rather than photocopies of what the applicant is claiming he had submitted in the past. If the applicant had actually submitted either of these documents prior to October 1, 2000, they would be in the possession of CIS, and the applicant would only have photocopies to furnish now in this LIFE proceeding.

Subsequently, in response to the notice of intent to deny, the applicant submitted the following additional evidence:

- a photocopy of a completed Legalization Questionnaire dated April 19, 2000; and
- a one-page fact-sheet entitled "CSS v. RENO."

The one-page "CSS v. Reno" fact sheet submitted by the applicant was issued by the Immigration and Naturalization Service or INS (now, Citizenship and Immigration Services, or CIS) in order to provide information and guidance regarding the ramifications of the CSS legalization class-action lawsuit. The submission of this instructional leaflet does *not* establish that the applicant has filed a timely claim for class membership.

In addition, had the applicant actually filed a Legalization Front-Desking Questionnaire with CIS on April 19, 2000, as claimed, a file would normally have been created at that point. However, there is no indication in CIS administrative or computer records of the applicant ever having filed this document. In fact, no CIS file was ever created in the name of the applicant until he filed this LIFE application on November 14, 2002. Moreover, the applicant fails to explain *why*, if he truly had the Legalization Front-Desking Questionnaire in his possession the entire time, it had not been submitted along with the aforementioned documents at the time he filed his LIFE application. It is noted that applicants are directed to furnish qualifying evidence *with* their applications. The applicant's failure to submit this questionnaire initially, and his failure to explain why he did not, creates suspicion regarding the document's authenticity.

It must be noted that the applicant is one of many aliens whose LIFE applications were prepared by Mario E. Carretero, an immigration consultant in Chicago. Although he has also signed the appeals, Mr. Carretero is *not* an accredited representative or otherwise authorized to represent aliens in proceedings before CIS.

Furthermore, all of his cases reviewed by this office thus far are the same in that all of the aliens claim to have requested class membership in the *Catholic Social Services* (CSS) lawsuit, rather than *Zambrano* or LULAC. They all claim to have been absent from the United States in 1987 or 1988, which could qualify them for CSS consideration, and they all claim to have returned within 45 days, which would allow them to be considered to have still maintained continuous residence for legalization purposes. Importantly, virtually none of the aliens had a pre-existing file with CIS prior to the filing of his or her LIFE application, and none had a file prior to the October 1, 2000 deadline for having applied for class membership. None of them has provided any type of individual receipt or letter that was issued to him or her by the Immigration and Naturalization Service prior to October 1, 2000.

Also, although LIFE applicants must demonstrate that they resided in the United States from January 1, 1982 to May 4, 1988, pursuant to 8 C.F.R. 245a.11(b), virtually none of these aliens, including this applicant, has provided any of the contemporaneous documents relating to residence during that period that are listed in 8 C.F.R. 245a.2(d)(3), such as pay stubs, W-2 forms, bills, school and medical records, receipts, licenses, registrations, and birth certificates of children born in the United States. These factors and commonalities raise additional questions as to the eligibility of the applicants for adjustment of status under the LIFE Act.

Given his failure to establish having filed a timely written claim for class membership, and the dubious nature of his documentation, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.