



U.S. Citizenship  
and Immigration  
Services

22

[Redacted]

FILE:

[Redacted]

Office: NATIONAL BENEFITS CENTER

Date:

IN RE:

Applicant:

[Redacted]

AUG 31 2004

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

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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 and, therefore, denied the application.

On appeal, the applicant asserts that when he was 11 years of age, his mother had filed a timely application for class membership in the *CSS/LULAC* class-action lawsuit.

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.

In the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership before October 1, 2000. However, the applicant must establish that the family relationship existed at the time the spouse or parent initially attempted to apply for temporary residence (legalization) in the period of May 5, 1987 to May 4, 1988. See 8 C.F.R. § 245a.10.

The applicant failed to submit any documentation addressing this requirement when the application was filed. Nor did he provide any documentation regarding that point in response to the notice of intent to deny.

On appeal, the applicant submitted the following:

- an incomplete photocopy (only pages 1 and 4) of a Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, which was purportedly signed by the applicant on May 31, 1991; and
- a photocopy of a notice dated June 3, 1991, reflecting that the applicant was to be interviewed at 10:00 AM on March 2, 1992 at the CIS office in Hialeah, Florida, regarding the question of his eligibility for class membership in the LULAC class-action lawsuit.

Documentation such as that provided by the applicant *may* possibly be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. § 245a.14(d). However, the applicant’s photocopied I-687 application is incomplete. Moreover, there is no indication in Citizenship and Immigration Services (CIS) administrative or computer records that this application was ever actually filed by the applicant or that it was ever received by CIS. The photocopied notice submitted by the applicant does not include a CIS Alien Registration Number (or A-number) for the applicant. Nor is there any indication in CIS electronic or administrative records of the agency ever having generated the notice. Unlike other LIFE applicants who have furnished photocopied interview notices, the present applicant has not attempted to provide any specifics or details about the interview or even stated that he *was*, indeed, interviewed. Finally,

the interview notice, which is dated June 3, 1991, lists the applicant's address as: 1475 W. 46<sup>th</sup> Street, #417, Hialeah, Florida 33012. However, on his Biographic Information Form G-325A, the applicant indicates that, since January 1990, he has resided at 17307 76<sup>th</sup> Street, Live Oak, Florida 32060. The applicant's failure to address, explain or resolve this discrepancy significantly diminishes the credibility of the applicant's documentation.

Moreover, the applicant does not explain *why*, if this I-687 application and interview notice had truly been in his possession the entire time, they were not submitted initially along with his LIFE application or at least in rebuttal to the notice of intent to deny, but only after his application was denied. Applicants for LIFE eligibility were advised to provide any and all qualifying evidence *with* their applications. The applicant's failure to submit these documents initially or in rebuttal to the notice of intent, or to explain why he did not, creates suspicion regarding their authenticity.

Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner 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. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant, on appeal, asserts that when he was 11 years of age, his mother had filed a timely application for class membership in the *LULAC* class-action lawsuit. However, he has submitted no evidence to support this assertion. As such, the applicant cannot claim class membership as a derivative alien pursuant to 8 C.F.R. § 245a.10.

It is concluded that the photocopied documents submitted by the applicant fail to credibly establish that he or his mother or any family member had ever filed a timely written claim for class membership in *LULAC* or any other legalization class-action lawsuit. The applicant is, therefore, ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

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