

PUBLIC COPY



U.S. Citizenship
and Immigration
Services

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

L2



FILE: [Redacted]

Office: Missouri Service Center

Date: FEB 02 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
for

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. It is now on appeal before the Administrative Appeals Office (AAO). 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 reasserts his eligibility for permanent resident status under the LIFE Act based on his alleged filing 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.

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

- 1) a photocopied notice from the New York City office of Citizenship and Immigration Services (CIS), dated November 18, 1988, purportedly acknowledging receipt from the applicant of a Form I-700, Application for Temporary Resident Status as a Special Agricultural Worker (SAW), under Section 210 of the Immigration and Nationality Act (INA);
- 2) a photocopied Form I-797 notice of action from CIS's Vermont Service Center, dated October 3, 1991, purportedly informing the applicant that an interview to determine eligibility for class membership in *CSS/LULAC* was canceled and would be rescheduled at an earlier date, provided the applicant submitted the required application materials;
- 3) a photocopied Form I-797 notice of action addressed to the applicant from the Vermont Service Center, dated November 18, 1991, purportedly verifying that a Form I-687, Application for Status as a Temporary Resident, and a Form I-690 waiver request had been received;
- 4) a photocopied Form I-797 notice of action from the Vermont Service Center, dated November 2, 1994, purportedly informing the applicant that his \$70.00 money order was being returned because his application for employment authorization, Form I-765, did not require a fee;
- 5) a photocopied Form I-797 Notice of Action from the Vermont Service Center, dated May 16, 1996, purportedly informing the applicant that the motion and corresponding fee that he submitted to reopen or reconsider a previously denied application for temporary resident status under either section 210 or 245A of the INA had been rejected, and that his employment authorization card (Form I-688a) and his temporary resident card (Form I-688) were no longer valid.

While all of these documents, except the first, could possibly be considered as evidence of having made a written claim for class membership, none of the documents includes a CIS Alien Registration Number (A-number, or file number) for the applicant, as specified in 8 C.F.R. § 245.14(b). Furthermore, there is no record of CIS generating the notices listed above or receiving any of the applications allegedly submitted by the applicant. The applicant clearly did not file the special agricultural worker application (the first document listed above) in 1988. If he had, an A-file would have been created at that time. In any event, an application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits.

As the applicant did not file the referenced applications, he could not have filed any motions to reopen any of those applications. The photocopies the applicant has submitted regarding those applications and motions cannot be authentic. Moreover, the fact that the applicant did not submit either originals or photocopies of the applications and corresponding money orders, which were purportedly rejected by CIS and returned to him, undermines the credibility of his claim to have submitted such applications.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant 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).

In response to the notice of intent to deny, the applicant submitted, in pertinent part, the following additional materials:

- 1) a photocopied Form I-687 application for status as a temporary resident under section 245A of the INA, which was purportedly signed by the applicant on February 10, 1988, and
- 2) a photocopied Legalization Front-Deskling Questionnaire allegedly signed by the applicant on October 2, 2000.

Only the first of these documents could possibly be considered as evidence of having made a written claim for class membership prior to October 1, 2000, as required under section 1104 of the LIFE Act. The applicant provides no explanation, however, as to *why*, if he truly had the Form I-687 in his possession the entire time, he did not submit it with his LIFE application. Applicants were instructed to provide qualifying evidence *with* their applications and the applicant did include other supporting documentation with his LIFE application.

On appeal, the applicant resubmitted the photocopied Form I-687 and Legalization Front-Deskling Questionnaire already in the record. In a subsequent letter to CIS, dated October 16, 2003, the applicant asserted that he had submitted the wrong documents previously and, pursuant to the advice of a friend, was now submitting some additional documents. These include:

- 1) a photocopied Form for Determination of Class Membership in *CSS v. Thornburgh (Meese)*, allegedly signed by the applicant on May 13, 1991;
- 2) a photocopied interview notice dated April 18, 1993, purportedly informing the applicant that he was to be interviewed by CIS in New York on July 16, 1993, regarding the question of his eligibility for class membership in *CSS/LULAC*.
- 3) photocopied statements from two persons asserting that the applicant resided at a certain

address in Brooklyn, New York, from December 1982 to October 1985 and that he worked for a certain company in Brooklyn from April 1983 to November 1985.

While the first two documents could possibly be considered as evidence of having made a written claim for class membership prior to October 1, 2000, they suffer from the same infirmities discussed with respect to the applicant's previously submitted documentation. Like the documents submitted with the LIFE application, the interview notice does not contain an A-number establishing that the document was actually generated by CIS in 1993. Moreover, as with the documentation submitted in response to the notice of intent to deny, the applicant provides no explanation as to *why*, if the form for determination of class membership and the interview notice truly date from the early 1990s, he did not originally submit those documents with his LIFE application.

It is further noted, with respect to all of the documentation submitted at the various stages of this proceeding, that the applicant is one of many aliens residing in New York City who have furnished such questionable photocopied documents in support of their LIFE applications. None of these applicants had pre-existing files with CIS prior to filing their LIFE applications, in spite of the fact that they all claim to have previously filed numerous applications or questionnaires with CIS.

In summary, the applicant has not explained why he did not submit all the photocopied materials with his initial application, rather than piecemeal at successive stages of this proceeding. Furthermore, the applicant has not provided any other evidence, such as postal receipts and envelopes, that could help to establish that he and CIS actually sent the photocopied materials of record to each other. In addition, none of the documents purportedly sent to the applicant by CIS during the 1990s concerning his alleged claim for class membership in *CSS/LULAC* contains an A-number indicating that they were actually generated by CIS. It is concluded, based on the entire record in this case, that the photocopies the applicant has submitted are *not* true copies of authentic documents.

The evidence of record, therefore, does not establish that the applicant made a written claim for class membership prior to October 1, 2000, in one of the requisite legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*, as required under section 1104 of the LIFE Act.

Furthermore, the LIFE Act requires that the applicant have lived in the United States continuously in an unlawful status from January 1, 1982 through May 4, 1988. See section 1104(c)(2)(B)(i) of the Act. In the Form G-325 he submitted with his LIFE application, however, the applicant stated that he resided in Bangladesh from the time of his birth in 1967 until October 1986. Accordingly, the applicant did reside unlawfully in the United States for the requisite time period to be eligible for legalization under the LIFE Act.

For the reasons discussed above, the applicant has not established his eligibility for permanent resident status under the LIFE Act.

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