

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



**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



FEB 20 2004

FILE:



Office: Missouri Service Center

Date:

IN RE: Applicant:



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, 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 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;
- 3) a photocopied Form I-797 notice of action from the Vermont Service Center, dated March 1, 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
- 4) 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. Furthermore, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status as a special agricultural worker under section 210 of the INA.

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 contains the applicant's signature but no entry in the "date" box to indicate when it was prepared;
- 2) a photocopied affidavit from the applicant concerning his seasonal agricultural employment for temporary residence status under the SAW Act; and
- 3) a series of photocopied statements from individuals asserting that the applicant worked as an agricultural laborer in the years 1985-86.

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. The lack of a date on the Form I-687 makes it impossible to verify that it was prepared, much less filed with CIS, prior to October 1, 2000, as required by section 1104(b) of the LIFE Act. In fact, there is no evidence that the form was ever filed with CIS prior to October 7, 2002, when the applicant responded to the notice of intent to deny. The latter two documents apply to the SAW Act which, as previously discussed, does not provide an avenue for legalization under the LIFE Act.

On appeal, the applicant resubmitted a photocopied Form I-687, which appears identical to the I-687 previously submitted except that it contains an entry in the "date" box of February 18, 1988. The applicant provides no explanation as to why the I-687 previously submitted did not include a date. This inconsistency casts further doubt on the authenticity of the document. Also submitted on appeal is a photocopied statement by an acquaintance of the applicant's, dated May 2, 1991, alleging that he accompanied the applicant to the "Legalization Office" on February 18, 1988, where an INS officer refused to accept his application because of a trip by the applicant to Bangladesh without advance parole. Once again, the authenticity of the document is questionable in view of the applicant's failure to submit it earlier in this proceeding. Even if the statement were true, moreover, it would not provide grounds for legalization under the LIFE Act. Filing a Form I-687, Application for Temporary Resident Status (Under Section 245A of the Immigration and Nationality Act), with INS in 1988 was the first step in the process of seeking permanent resident status under the statutory

provisions of the Immigration Reform and Control Act of 1986 ("IRCA"). It did not constitute a claim for class membership in one of the subsequent class-action legalization lawsuits in the federal court system. Filing a claim for class membership in one of the lawsuits, *CSS*, *LULAC*, or *Zambrano*, was a separate and distinct action from applying for temporary status under IRCA.

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. The CIS has no record of the applicant filing any application or other materials prior to the instant LIFE Act proceeding. 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 filed 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, under section 1104(c)(2)(B)(i) of the LIFE Act an alien must establish that he or she entered the United States before January 1, 1982, and resided in this country continuously in an unlawful status through May 4, 1988. The record in this case, in particular a Form G-325A Biographic Information signed by the applicant, indicates that the applicant resided in Bangladesh until October 1986. Therefore, he could not have entered the United States before January 1, 1982 and resided unlawfully in this country for the requisite time period of January 1, 1982 to May 4, 1988.

For the reasons discussed above, the applicant is ineligible for permanent resident status under the LIFE Act.

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