

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



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

PUBLIC COPY

LD

FEB 20 2004

FILE:

[REDACTED]

Office: National Benefits Center

Date:

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 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 he has already submitted documentation addressing the requirement of applying for class membership. He requests that this documentation be reviewed again and that further consideration be given to his case.

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.

The applicant asserted in his LIFE application that he was eligible for legalization based on CSS, but furnished no documentary evidence that he had filed a written claim for class membership in that lawsuit. In response to the director's notice of intent to deny, the applicant submitted a photocopy of a letter to Attorney General Janet Reno, dated September 16, 2000, in which the applicant purportedly sought to be registered as a class member in CSS. Pursuant to 8 C.F.R. § 245a.10, a *written claim for class membership* means a filing, in writing, in one of the forms listed in § 245a.14, which provides the Attorney General with notice that the applicant meets the class definition in the cases of CSS, LULAC or Zambrano. The letter in this case does not constitute a "form" and does not equate to the actual forms listed in 8 C.F.R. § 245a.14, although that regulation states that other "relevant documents" may also be considered. The applicant's brief letter, however, does not even begin to imply that he could qualify for CSS class membership because it does not provide any relevant information upon which a determination could be made. Moreover, the applicant does not explain *why*, if this letter were truly in his possession the entire time, he did not submit it with his LIFE application, as applicants were advised to provide evidence *with* their applications.

It must be noted that the applicant is one of many aliens who furnished such identically-worded letters (virtually all dated from September 14 to September 25th, 2000) only after receiving letters of intent to deny, rather than simultaneously with their LIFE applications. All of these aliens had their LIFE applications prepared by M.E. Real of a California company called Professional Tax Service, Inc. None of these aliens has provided any evidence, such as postal receipts, which might help demonstrate that the letters were actually sent to the Attorney General. Given the importance of the letters, it is reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail. Lastly, the statements on appeal submitted by these aliens, none of whom asserts to be represented by counsel, are identical. All of these factors raise grave questions about the authenticity of the letter that the applicant purportedly sent to the Attorney General.

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).

The applicant furnishes no further evidence on appeal, but claims on his appeal form that the documentation previously submitted demonstrates that he submitted a "request for classification." The applicant complains that he has not been given any specifics as to why his application was denied. Contrary to the applicant's contention, the Notice of Decision explained that the application was being denied because none of the documentation submitted by the applicant or on record with the Immigration and Naturalization Service (now Citizenship and Immigration Services, or CIS) established that a timely claim for class membership had been filed - *i.e.*, prior to October 1, 2000 - in one of the requisite legalization lawsuits.

The photocopy of the letter to the Attorney General does not establish that the original was actually received by the office of the Attorney General or by the Immigration and Naturalization Service (CIS) in September 2000. The applicant has not provided any evidence, such as a postal receipt, that could help to show that he actually sent the subject letter to the Attorney General in September 2000, as alleged. In fact, there is no record that the subject letter was ever received prior to October 22, 2002, the date it was received by the Missouri Service Center in response to the director's notice of intent to deny the instant application. This was long after the statutory deadline of October 1, 2000, for filing a written claim for class membership. *See* section 1104(b) of the LIFE Act. It is concluded, based on the entire record in this case, that the photocopied letter the applicant has submitted, dated September 16, 2000 and allegedly sent to the Attorney General, is *not* a true copy of an authentic document.

The evidence of record, therefore, does not establish that the applicant filed a written claim for class membership prior to October 1, 2000 in *CSS* or either of the other two legalization lawsuits, *LULAC* or *Zambrano*, as required under section 1104(b) of the LIFE Act.

Accordingly, 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.