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U.S. Department of Homeland Security

Citizenship and Immigration Services

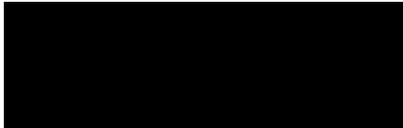
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ADMINISTRATIVE APPEALS OFFICE

CIS, AAO, 20 Mass, 3/F

425 I Street N.W.

Washington, D.C. 20536



FILE:



Office: National Benefits Center

Date:

JAN 13 2004

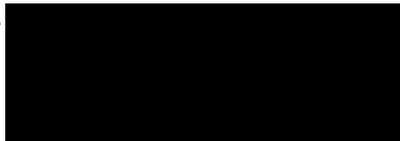
IN RE: Applicant:



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:



INSTRUCTIONS:

Attached is the decision rendered on your appeal. 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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 before the Administrative Appeals Office (AAO) 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 reaffirms his eligibility for permanent resident status under the LIFE Act as one who has applied for class membership in the *CSS* 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 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 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) 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), dated November 18, 1988;
- 2) a photocopied letter from the applicant to Attorney General Janet Reno, dated April 29, 1996, requesting that his SAW application, allegedly "denied during 1991-93," be reconsidered;
- 3) a photocopied Form I-797 Notice of Action from CIS's Vermont Service Center, dated November 2, 1994, informing the applicant that his \$70.00 money order was being returned to him because his application for employment authorization, Form I-765, did not require a fee;
- 4) a photocopied Form I-797 Notice of Action from the Vermont Service Center, dated March 1, 1996, 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 Immigration and Nationality Act (INA) had been rejected; and

- 5) a photocopied Form I-797 Notice of Action from the Vermont Service Center, dated May 16, 1996, 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 the third document could possibly be considered as evidence of having made a written claim for class membership, the document does not include 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. Clearly, the applicant did not file the special agricultural worker application in 1988. If he had, a file would have been created at that time. ¹ 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).

¹ 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.

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 November 20, 1987;
- 2) a photocopied Form for Determination of Class Membership in *CSS v. Thornburgh (Meese)*, allegedly signed by the applicant on January 10, 1991.
- 3) a photocopied interview notice dated June 3, 1993, reflecting that the applicant was to be interviewed at the New York City office of CIS on September 8, 1993, regarding the question of his eligibility for class membership in *CSS/LULAC*;
- 4) a photocopied Legalization Front-Desking Questionnaire allegedly signed by the applicant on February 10, 2000; and
- 5) a photocopied letter from the applicant to the CIS office in Washington, D.C., dated February 10, 2000, and captioned Claim for Class Membership as *CSS1 Group Member*.

The applicant provides no explanation whatsoever as to why, if he truly had these documents in his possession the entire time, he did not submit them 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 Act application.

It is further noted that the applicant is one of many aliens residing in New York City who have furnished such questionable photocopied documents with 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.

It is concluded that the photocopies that the applicant submitted prior to the director's decision do not establish that he actually 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.

On appeal, the applicant resubmitted some of the photocopied documents already in the record. He also submitted a personal statement about his alleged attempts over the years to acquire legalized status in the United States, as well as affidavits from two individuals who assert they are long-time acquaintances of the applicant and know that he resided in the United States

continuously from June 1981 through December 1988. None of these materials overcomes the applicant's previous failure, discussed above, to submit credible documentary evidence that he filed a timely claim for class membership in one of the requisite legalization lawsuits.

In summary, the applicant has not explained why he cannot furnish any original documents. Nor has he 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. 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.

Accordingly, 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.