



U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

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[Redacted]

National Benefits Center

JUL 6 7 2004

FILE:

[Redacted]

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, Director
Administrative Appeals Office

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 she had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, the applicant asserts that she qualifies for LIFE legalization because she filed an affidavit of circumstances (questionnaire) with the Immigration and Naturalization Service (INS), Vermont Service Center, claiming class membership in the lawsuit of *LULAC v. INS, infra*, before the February 2, 2001 deadline indicated in the instructions.

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.

With her LIFE application (Form I-485) the applicant submitted a copy of a Legalization Front-Desking Questionnaire, dated October 20, 2000, in which she claims that an INS officer in Houston, Texas, had refused to accept (*i.e.*, “front-desked”) her application for legalization under the Immigration Reform and Control Act of 1986 (“IRCA”) when she tried to file it during the one-year filing period of May 5, 1987 to May 4, 1988. The applicant’s file includes the *original* of the front-desking questionnaire, which was stamped as received by the INS Vermont Service Center on December 4, 2000. In order to qualify for late legalization under the LIFE Act, however, an alien must demonstrate that he or she filed a written claim for class membership in one of the legalization lawsuits before October 1, 2000.

On appeal the applicant submitted a statement asserting that she qualified as having filed for class membership in *LULAC* under section 1104 of the LIFE Act because she submitted the Legalization Front-Desking Questionnaire before February 2, 2001, the deadline indicated in the instructions. The applicant claimed that the questionnaire (a) was listed on a flyer the INS sent to the applicant entitled “Examples of a Written Documentation for Claim for Class Membership,” (b) was therefore *ipso facto* proof of the applicant’s written claim for class membership in *CSS*, *LULAC*, or *Zambrano*, and (c) had its own deadline for submission which the applicant satisfied.

Contrary to the applicant’s contention, the Legalization Front-Desking Questionnaire, with its submission deadline of February 2, 2001, was unrelated to any claim for class membership in one of the legalization lawsuits. Rather, the questionnaire was part of a separate program designed to identify applicants who attempted to apply for legalization during the original filing period from May 5, 1987 to May 4, 1988, but whose applications were rejected, or “front-desked.” Under this program the questionnaire was reviewed by the Vermont Service Center to determine whether the front-desking claim was valid. If the claim was found to be valid, the applicant was advised thereof by letter and instructed to file a Form I-687,

application for temporary residence, with the Texas Service Center. The application would then be adjudicated as though filed during the initial filing period. The adjudication of an I-687 application by the Texas Service Center, however, has nothing to do with the adjudication of the applicant's I-485 application under the LIFE Act, which is currently before the AAO.

Submitting a Legalization Front-Deskling Questionnaire to the Vermont Service Center, in other words, does not constitute the filing of a claim for class membership in one of the legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*, required by section 1104(b) of the LIFE Act. Nor does it alter the statutory requirement, likewise specified in section 1104(b) of the LIFE Act, that the written claim for class membership must have been filed prior to October 1, 2000. Thus, the applicant's Legalization Front-Deskling Questionnaire does not represent a timely claim for class membership in *LULAC*.

In addition to the foregoing questionnaire, the applicant submitted with her LIFE application a photocopied Form I-687, Application for Status as a Temporary Resident (Under section 245A of the Immigration and Nationality Act). The form contains handwritten entries, bears the applicant's signature, but is undated. Subsequently, in response to the director's Notice of Intent to Deny, the applicant submitted a different Form I-687 containing typewritten entries and, following her signature, the date February 15, 1994. The applicant has provided no explanation for the two different forms and why one is dated but not the other. The applicant also submitted an Affidavit for Determination of Class Membership in *LULAC*, signed by her and dated February 15, 1994. However, the applicant has not furnished any evidence, such as postal receipts or acknowledgement letters from the INS, that either an I-687 application or a *LULAC* class membership form was actually submitted to the agency in 1994. Citizenship and Immigration Services (CIS), successor to the INS, has no record of receiving the subject documents before 2002, in connection with the instant LIFE application.

It must also be noted that the documents submitted by the applicant in this proceeding are the same as those provided by numerous other LIFE Act applicants who did not disclose their actual addresses on their applications, but rather showed the same P.O. Box in Houston. These aliens do not claim to be represented, and yet they all file the same lengthy statements in rebuttal and/or on appeal. These factors raise grave questions about the authenticity of the subject documents.

It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. See *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The applicant provides no additional evidence on appeal that either of the two I-687 applications, or the *LULAC* class membership determination form, was actually prepared and submitted to the INS in February 1994. Based on the entire record, it is concluded that the I-687 applications and *LULAC* class membership determination form submitted by the applicant in this LIFE Act proceeding do not establish that there were original documents actually submitted to the INS in 1994, or any time prior to October 1, 2000.

For the reasons discussed above, the applicant has failed to establish that she filed a written claim for class membership in *LULAC*, or either of the other two legalization lawsuits, *CSS* or *Zambrano*, before October 1, 2000, as required to be eligible for legalization under section 1104(b) of the LIFE Act. Accordingly, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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