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U.S. Citizenship
and Immigration
Services



L2

FILE:



Office: NATIONAL BENEFITS CENTER

APR 13 2004
Date:

IN RE:

Applicant:



PETITION: 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. All documents have been returned to the office that originally decided your case. 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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director concluded the applicant had not established that she 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 submits additional evidence in support of her appeal.

An applicant for permanent resident status under 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 any 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 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, the applicant submits the following:

- a photocopied Form for Determination of Class Membership in CSS v. Meese or LULAC, which was signed by the applicant on September 21, 1992; and
- a photocopied Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, which is signed by the applicant but is not dated.

These photocopied submissions provided by the applicant may be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. 245a.14(d). However, in this case, an examination of administrative and electronic records of Citizenship and Immigration Services or CIS (formerly, the Immigration and Naturalization Service or INS or the Service) fails to disclose any evidence of this applicant ever having previously filed such forms with this agency.

Subsequently, on appeal, the applicant submits the following additional documentation:

- a Form I-72 notice from the INS District Director, Dallas, Texas, dated June 10, 1993 indicating the applicant failed to establish class membership in CSS/LULAC;

- what appears to be a continuation of a determination form dated March 10, 1993 indicating that the applicant was found by an INS officer to be a CSS v. Meese or LULAC class member after a second interview, and was accordingly granted employment authorization; and
- a communication from James M. Bailey, Director, INS Northern Service Center, dated January 23, 1993, indicating that the applicant had filed an application for legalization under CSS v. Meese.

Pursuant to 8 C.F.R. § 245a.14(d), certain photocopied Service communications *may* be considered as evidence of having made a written claim for class membership. However, in this case, the applicant provides no explanation whatsoever as to *why*, if she truly had these Service documents in her possession the entire time, she did not submit them along with her determination form and her I-687 application at the time she filed her LIFE application. Applicants were instructed to provide any and all qualifying evidence with their applications. Submitting such documentation so late in the application process, *i.e.* only after her LIFE application had been denied, serves to create considerable skepticism regarding the authenticity and credibility of the applicant's documentation.

Furthermore, there are unexplained omissions in the applicant's documentation submitted on appeal. The June 10, 1993 notice from the INS District Director, Dallas, Texas, makes reference to an attachment explaining why the applicant failed to establish class membership. However, this attachment is not included in the record. The March 3, 1993 communication submitted by the applicant appears to be a continuation sheet of an INS officer determination regarding the applicant's eligibility for CSS/LULAC. As with the previously-cited document, however, the accompanying portion (in this case, the first page) has not been provided. The applicant's failure to resolve or explain these omissions creates further questions of credibility concerning the applicant's documentation and claim.

Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner 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 has failed to submit documentation which credibly establishes her having filed a timely written claim for class membership in one of the aforementioned legalization class-action lawsuits. 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.