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U.S. Citizenship
and Immigration
Services



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JUL 20 2004

FILE:

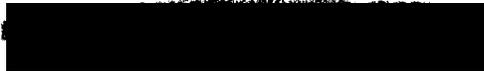


Office: National Benefits Center

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 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

[REDACTED]

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 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 claims to have sent a request for class membership to the Washington, D.C. office of the U.S. Immigration and Naturalization Service (now Citizenship and Immigration Services, or CIS.) The applicant resubmits a copy of a legalization questionnaire that she filed with her LIFE application.

Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been furnished by [REDACTED]. Pursuant to 8 C.F.R. § 292.1(a) (3), a reputable individual who is appearing without direct or indirect remuneration and files a written declaration to that effect may represent an applicant. As [REDACTED] has filed no declaration, this decision will be sent to the applicant only.

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), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993). 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. The regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14. Furthermore, those regulations require CIS to determine whether an alien filed a written claim for class membership as reflected in CIS indices and administrative files.

Along with her LIFE application, the applicant provided a copy of a Legalization Questionnaire dated May 12, 2000, a photocopy of a Form I-687, Application for Status as Temporary Resident under Section 245A of the Immigration and Nationality Act, dated March 21, 1988, and a copy of an undated affidavit that described her purported attempts to apply for legalization during the actual filing period of May 5, 1987 to May 4, 1988. An examination of CIS records fails to disclose any evidence of this applicant having previously filed such forms. In fact, no CIS file was ever created in the name of the applicant until she filed this LIFE application on May 1, 2003.

Along with the notice of intent to deny, the applicant included another photocopy of the Form I-687, a copy of the May 21, 2000 legalization questionnaire, and a copy of her Form I-765, Application for Employment Authorization, dated March 18, 2003. Again, there is no evidence that the applicant requested class membership prior to May 2003.

It is noted that the applicant is one of many aliens whose LIFE applications were prepared by [REDACTED] an immigration consultant in Chicago. Although he signed the appeals, [REDACTED] is not an accredited representative or otherwise authorized to represent aliens in proceedings before CIS.

Furthermore, all of his cases reviewed by this office thus far are the same in that all of the aliens claim to have requested class membership in the *Catholic Social Services* (CSS) lawsuit, rather than *Zambrano* or LULAC. They all claim to have been absent from the United States in 1987 or 1988, which could qualify them for CSS consideration, and they all claim to have returned within 45 days, which would allow them to be considered to have still maintained continuous residence for legalization purposes. The affidavits she and the other applicants have provided attesting to their residence for the 1982-88 period are all in the same stylized format with the same typeface, and they are all identically-worded "fill in the blank" statements. These factors and commonalities raise additional questions as to the eligibility of the applicants for adjustment of status under the LIFE Act.

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).

Given her failure to establish having filed a timely written claim for class membership, and the dubious nature of her documentation, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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