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

La



FILE:



Office: National Benefits Center

Date: JUL 23 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:

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 matter will be remanded for further consideration and action.

The director concluded that the record failed to establish that he or his spouse filed a claim for class membership in one of the requisite legalization class-action lawsuits before October 1, 2000.

On appeal the applicant asserts that his application was wrongfully denied because, among other things, he was given two A-numbers during the 1990s [REDACTED] both of which are different from the A-number used in his current application under the LIFE Act. The applicant submitted photocopies of various documents dating from the 1990s, some of which were already in the record, which allegedly show that he and his father filed timely claims for class membership in the *LULAC* class-action lawsuit, *infra*. The applicant also submitted photocopied documentation of his parents' current applications under the LIFE Act. Lastly, the applicant asserts that he is eligible for LIFE legalization derivatively through his father.

To be eligible for permanent resident status under section 1104 of the LIFE Act, an alien 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.

An alien may also be eligible for permanent resident status if (s)he is the spouse or child of an alien who filed a written claim for class membership in a legalization class-action lawsuit before October 1, 2000, provided the family relationship existed at the time the spouse or parent initially attempted to apply for legalization during the original filing period from May 5, 1987 to May 4, 1988. See 8 C.F.R. § 245a.10.

In adjudicating the appeal, the AAO will first address the issue of the applicant's A-number. The records of Citizenship and Immigration Services (CIS), successor to the Immigration and Naturalization Service (INS), indicate that a file under A-number [REDACTED] was opened in another person's name on March 3, 1993. In October 1996, when the instant applicant filed a Form I-698, Application to Adjust Status from Temporary to Permanent Resident, he apparently used the above A-number (though it was handwritten over another unidentifiable A-number that was whited out on the application). The I-698 application was denied by the Southern Service Center in April 1997. Neither the Notice of Intent to Deny nor the Notice of Decision used [REDACTED], or any other A-number, to identify the applicant. Subsequently, on August 24, 2001, the INS opened an A-file for the applicant under the number [REDACTED]. Despite this fact, when the applicant filed his LIFE application (Form I-485) on June 9, 2002 he still used the old incorrect A-number, [REDACTED].

As evidence that he filed a claim for class membership in *LULAC*, the applicant submitted with his I-485 application a photocopied INS notice (Form G-56), dated December 9, 1992, purportedly scheduling a "*LULAC* interview" for him in Miami on December 21, 1992. The appointment notice identified the applicant's file number as [REDACTED]. Later, in response to the director's Notice of Intent to Deny, the applicant submitted another photocopied INS notice (Form I-72), dated January 14, 1993, identifying the applicant as a *LULAC* applicant and his A-number as [REDACTED]. Both of these forms were resubmitted on appeal. As indicated in the foregoing paragraph, however, the A-file identified as [REDACTED] was not opened by the INS until March 3, 1993, which was after the dates of the two INS notices allegedly sent to the applicant. Moreover, the A-file was opened in the name of *someone else*. Furthermore, as the director stated in his decision CIS (INS) has no record of sending either notice to the applicant. Based on the evidence of record, therefore, the AAO concludes that the photocopies of the G-56 and I-72 notices allegedly sent to the applicant in December 1992 and January 1993 are not photocopies of authentic documents.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application." *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

On appeal the applicant also submitted a photocopy of the I-698 application he had filed in 1996, with one important difference. The "Applicant's File No." was identified as [REDACTED] in the photocopy, instead of [REDACTED] as appeared (over whiteout) in the original. In his appeal the applicant stated that "I believe my correct alien number is [REDACTED]" based on the I-698 application and the fact that the number represents a "natural progression" to his parents' A-numbers, which are [REDACTED] and [REDACTED]. A review of CIS records, however, confirms that [REDACTED] is *not* the applicant's A-number and, in fact, is an A-file that was opened for someone else on October 31, 1991. Moreover, the applicant has made no attempt to explain the discrepancy in the A-numbers that appear on the original Form I-698 he filed in 1996 and the photocopy of that form he submitted in 2003. This casts even further doubt on the credibility of the applicant's evidence.

No further evidence has been submitted that the applicant filed a claim for class membership in *LULAC*, or either of the other legalization lawsuits, before October 1, 2000. The AAO concludes, therefore, that the applicant has failed to establish that he filed a timely claim in his own right for class membership in one of the legalization class-action lawsuits.

The other documentation submitted by the applicant on appeal pertains to the separate LIFE applications filed by his parents, [REDACTED] and [REDACTED]. The record indicates that these two applications are still pending. Since the applicant could potentially be eligible for derivative LIFE legalization, his case should be held in abeyance until decisions are reached on his parents' applications. If, at that time, a negative decision is reached on the applicant's claim of derivative eligibility, the decision shall be certified to the AAO for a decision on the appeal.

ORDER: This matter is remanded for further consideration and action in accordance with the foregoing paragraph.