



U.S. Citizenship
and Immigration
Services



Handwritten number 2

FILE: [Redacted] Office: NATIONAL BENEFITS CENTER

JUL 28 2004
Date:

IN RE: Applicant: [Redacted]

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

Robert P. Wiemann, Director
Administrative Appeals Office

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Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was initially denied by the Director, Missouri Service Center. The matter was subsequently reopened and denied again by the Director, National Benefits Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The directors both 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 from the initial denial, the applicant indicated that he sent a request for class membership to the Washington, D.C. office of the United States Immigration and Naturalization Service (now Citizenship and Immigration Services, or CIS).

The record shows that subsequent to the reopening of the case, the applicant was afforded the opportunity to submit additional material to supplement the appeal. The applicant subsequently submitted additional material in support of his appeal and, therefore, such material shall be incorporated into the appeal.

Although a Notice of Entry of Appearance as Attorney of Representative (Form G-28) has been submitted, the individual is not authorized under 8 C.F.R. § 292.1 or 8 C.F.R. § 292.2 to represent the applicant. Therefore, this decision will be furnished 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) (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. The regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

Along with his LIFE application, the applicant provided a Legalization Questionnaire dated May 20, 2000, and an undated document titled "Affidavit," which described his purported attempts to have applied for legalization during the actual filing period of May 5, 1987 to May 4, 1988. The Legalization Questionnaire and the Affidavit were completed and signed in ink. Thus, these are original documents; none of these are photocopies of what the applicant is apparently claiming he had submitted prior to October 1, 2000. That is, if the applicant had actually submitted any of these documents prior to October 1, 2000, they would be in the possession of CIS, and the applicant could only have photocopies of what he had submitted to now present in this LIFE proceeding. An examination of CIS records fails to disclose any evidence of this applicant having previously filed such forms. In fact, no CIS A-file was ever created in the name of the applicant until he filed this LIFE application on October 13, 2001.

In addition, the applicant submitted a photocopy of a Form I-687, Application for Status as Temporary Resident Under Section 245A of the Immigration and Nationality Act (INA), dated November 27, 1995, in his response to the initial notice of intent to deny issued in these proceedings. However, the Form I-687 legalization application is clearly a contemporaneous document as the applicant has provided a list of his employers through July of

2000. An examination of the record fails to disclose any evidence that this document was submitted to CIS prior to the receipt of the applicant's response to the initial notice of intent to deny on June 20, 2002.

It must be noted that the applicant is one of many aliens whose LIFE applications were prepared by Mario E. Carretero, an immigration consultant in Chicago. Although he has also signed the appeals, Mr. Carretero is not authorized to represent aliens in any proceeding before CIS. Furthermore, all of the cases reviewed by this office thus far are the same in that none of the aliens had a pre-existing file with CIS prior to the filing of their LIFE applications. Also, although a LIFE applicant must demonstrate that he or she resided in the United States from January 1, 1982 to May 4, 1988, pursuant 8 C.F.R. 245a.11(b), none of these applicants have provided any contemporaneous evidence of such. Furthermore, thirteen of the sixteen affidavits the applicant submitted in support of his claim of residence for the 1982-88 period are in the same stylized format with the same typeface, and are identically-worded "fill in the blank" statements. Although the three remaining affidavits of residence differ from the previously mentioned thirteen affidavits, these three affidavits are mirror images of themselves in that they contain the same stylized format with the same typeface, and are 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.

Given his failure to establish having filed a timely written claim for class membership, 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.