



U.S. Citizenship
and Immigration
Services

12

[REDACTED]

FILE:

[REDACTED]

Office: National Benefits Center

Date:

JUL 30 2004

IN RE: Applicant:

[REDACTED]

APPLICATION:

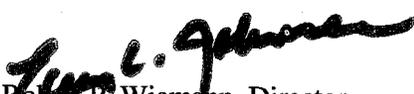
Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

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

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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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 record did not establish the applicant had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000.

On appeal the applicant asserts that he filed a legalization questionnaire in Washington, D.C., to which he received no response, and a Form I-687 which was returned to him. The applicant also resubmitted a photocopy of the referenced legalization questionnaire.

The appeal was filed on behalf of the applicant by [REDACTED], who filed a Form G-28, Notice of Appearance as Attorney or Representative [REDACTED] acknowledged on the form that he is neither an attorney nor an accredited representative (within the meaning of 8 C.F.R. § 292.1), but stated that he was an "immigration consultant for over 30 years." As specified in 8 C.F.R. § 292.1(a)(3)(ii), an applicant may be represented by "[a]ny reputable individual of good moral character, provided that [h]e is appearing without direct or indirect remuneration and files a written declaration to that effect." (Emphasis added.) No such written declaration has been filed in this case by [REDACTED]. Accordingly, this decision will be sent only to the applicant.

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.

In his LIFE application (Form I-485) the applicant identified CSS as the basis of his eligibility for "LIFE legalization." Submitted along with the Form I-485 were photocopies of a Form I-687, Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act), signed by the applicant and dated February 22, 1988, and a "Legalization Questionnaire," signed by the applicant and dated December 5, 1999. In the Legalization Questionnaire the applicant asserted that he went to an INS office in Forest Park, Illinois, in 1987 or 1988, where he was rebuffed (*i.e.*, "front-desked") by the INS officer when he attempted to file an application for legalization under the Immigration Reform and Control Act of 1986 ("IRCA"). The applicant asserted in the questionnaire that he heard about CSS and tried again to file an application at a "local office" in December 1995, but was told by the INS officer that "C.S.S. was canceled."

The applicant appears to regard the Legalization Questionnaire, dated December 5, 1999, as a timely claim for class membership in CSS. However, Citizenship and Immigration Services (CIS), formerly the Immigration and Naturalization Service (INS), has no record that the applicant actually submitted the questionnaire to the INS before October 1, 2000. The applicant has submitted no evidence, such as a postal receipt or an acknowledgement letter, demonstrating that the questionnaire was completed and sent to the INS in December 1999, as alleged, or any time prior to October 1, 2000. The same applies to the Form I-687. CIS (INS) has no record of receiving the document prior to October 1, 2000 and the applicant has not furnished any evidence, such as a postal receipt or an acknowledgement letter, that the document was submitted before that date. In fact, CIS has no record of receiving either the Legalization Questionnaire or

the Form I-687 until December 18, 2002, when the instant LIFE application was filed. That was long after the statutory deadline of October 1, 2000 to file a claim for class membership in *CSS* or one of the other legalization lawsuits, *LULAC* or *Zambrano*. Thus, neither the Legalization Questionnaire nor the Form I-687 is evidence of a timely filed claim for class membership in *CSS*.

Moreover, even if the Legalization Questionnaire had been filed with the INS in Washington, D.C. before October 1, 2000, it would not have constituted a timely claim for class membership in one of the legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*. The Legalization Questionnaire, as indicated in its instructions, 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 under IRCA from May 5, 1987 to May 4, 1988, but whose applications were rejected, or "front-desked." Under this program the INS reviewed the questionnaire to determine whether the front-desking claim was valid. If the claim was found to be valid, the applicant would be advised thereof by the INS (now CIS), instructed how and where to file a proper application (Form I-687), and have the application adjudicated in accordance with section 245A of the Immigration and Nationality Act – *i.e.*, as an application for *temporary* resident status. The adjudication of an I-687 application is completely separate from the adjudication of the applicant's I-485 application for *permanent* resident status under the LIFE Act, which is currently before the AAO.

No further evidence has been submitted on appeal. For the reasons discussed above, therefore, the record fails to establish that the applicant filed a written claim for class membership in *CSS* or one of the other legalization lawsuits, *LULAC* or *Zambrano*, before October 1, 2000, as required 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.