

IDENTIFYING DATA DELETED IN
REPRODUCTION



U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



FILE: [Redacted] Office: National Benefits Center Date: [Redacted]

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

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

The directors concluded that the applicant had not established 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 the applicant asserted that he filed a timely claim for class membership in the CSS lawsuit, *infra*, and submitted a series of affidavits from acquaintances in New York City.

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.

When he filed his LIFE application (Form I-485) the applicant did not submit any documentary evidence that he filed a claim for class membership in CSS or either of the other legalization lawsuits. Nor did he submit any documentation of such a claim in response to the first Notice of Intent to Deny his application from the Missouri Service Center. Only in response to the second Notice of Intent to Deny, from the National Benefits Center, did the applicant offer some details about his alleged filing of a class membership claim in CSS, along with two supporting affidavits. In his response letter the applicant asserts that he attempted to file an application at an INS office in New York City, but "the officer refused to take the application because he had learned that I had traveled outside the U.S. without prior authorization from the I.N.S." The applicant asserts that he tried again in 1990 and this time "the officer took my application and told me that I would hear from the I.N.S." The applicant also submitted two affidavits from acquaintances in New York City, both dated in August 2003, regarding the alleged attempt to file a claim for class membership in 1987. Each affidavit is very brief, devoting just one sentence to the alleged transaction. The first affiant stated that "in August 1987 I witness[ed] [the applicant] inside the I.N.S. office located at [redacted] hand out an application to an INS officer." The second affiant stated the "in August 1987 I was with [the applicant] at the INS office on [redacted] and I witnessed [him] tender an application."

Even if the applicant's assertion is true that he attempted to file an application in 1987, but was turned away (or "front-desked") by an INS officer in New York, that would have been during the original one-year filing period (May 5, 1987 to May 4, 1988) for aliens seeking legalization under section 245A of the Immigration and Nationality Act (INA), enacted as part of the Immigration Reform and Control Act of 1986 ("IRCA"). Applying for legalization under the statutory provisions of IRCA was not the same thing as filing a claim for class membership in one of the subsequent legalization class-action lawsuits, which the applicant asserts he did in 1990. Neither of the affiants provided any information about the alleged claim for class membership in 1990, however, and the applicant has provided no documentary evidence of any such claim. There is no acknowledgement letter from the Immigration and Naturalization Service, for example, or any other correspondence from the INS indicating that a class membership claim was filed by the applicant in 1990 or any time thereafter up to October 1, 2000. In fact, INS (now Citizenship and Immigration Services) has no record of receiving any correspondence from the applicant referring to CSS until the instant LIFE application

and accompanying employment authorization application (Form I-765) were filed in February 2002. That was long after the deadline of October 1, 2000 to file a claim for class membership in *CSS*, or either of the other legalization lawsuits.

Thus, the record fails to establish that the applicant filed a written claim for class membership in *CSS*, or either of the other two 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.