

PUBLIC COPY



U.S. Citizenship
and Immigration
Services

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

h2



FILE: [Redacted] Office: National Benefits Center

Date: JUN 2 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

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, on November 4, 2002. It was reopened and denied again by the Director, National Benefits Center, on November 25, 2003. 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 one of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, the applicant reasserts his eligibility for permanent resident status under the LIFE Act, alleging that he resided in the United States during the requisite time period under the statute and filed a timely claim for class membership in the *CSS/LULAC* class-action lawsuit, *infra*.

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.

With his LIFE application, the applicant submitted photocopies of four notices he allegedly received from the U.S. Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS). The first, dated November 18, 1988, purportedly acknowledged receipt of an application (Form I-700) for temporary resident status as a Special Agricultural Worker (“SAW”). The other three notices, dated November 2, 1994, February 28, 1996, and May 23, 1996, pertain to motions and checks the applicant purports to have submitted, or attempted to submit, to the INS in connection with a legalization application under section 210 (SAW) or section 245A of the INA.

None of these submissions includes an Alien Registration Number (A-number, or file number) for the applicant. Furthermore, CIS (INS) has no record of sending the photocopied notices to the applicant or receiving any application from the applicant based on section 210 or section 245A of the INA. Clearly, the applicant did *not* file a special agricultural worker (SAW) application. If he had, an A-file would have been created at that point in time – *i.e.*, in November 1988. In fact, no A-file was created for the applicant until the instant LIFE application was filed in March 2002, and CIS has no record of any contact with the applicant before then. Thus, the photocopies the applicant has submitted regarding the alleged SAW (or section 245A) application cannot be authentic.

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).

In response to the initial Notice of Intent to Deny, the applicant submitted some additional documentation in September 2002, including photocopies of (1) a letter addressed to an INS official in Washington, D.C. entitled “Claim for Class Membership in *CSS1* Category,” which is signed by the applicant and dated February 10, 2000, (2) a “Legalization Front-Desking Questionnaire,” likewise signed by the applicant and

dated February 10, 2000, and (3) a Form I-687, application for temporary resident status under section 245A of the INA, signed by the applicant and dated November 20, 1987. According to the applicant, he attempted to file the I-687 form during the original legalization program under section 245A of the INA, but was "front-desked" by an INS officer in New York City. The applicant asserts that he submitted the I-687 form along with the CSS class membership claim and the legalization questionnaire to the INS office in Washington, D.C. on February 10, 2000. The applicant has not submitted any evidence, however, such as postal receipts or acknowledgement letters from the agency, that the three documents were actually submitted to the INS in February 2000. The purported "Claim for Class Membership in CSS1 Category" does bear the stamp and signature of a notary public, verifying that it was prepared on February 10, 2000. That stamp does not prove that the applicant submitted the letter to the INS at that time, however, and the only INS receipt stamp on the document is that of the Missouri Service Center, dated September 19, 2002. In fact, CIS has no record of receiving any of the three documents until September 2002. That was nearly two years after the statutory deadline of October 1, 2000 to file a claim for class membership in CSS or one of the other legalization lawsuits.

On appeal the applicant submitted three additional photocopied documents in November 2002. One was another Legalization Front-Desking Questionnaire, which differed from the first in that it was typed rather than handwritten, answered the questions somewhat differently, and was dated March 15, 2000. The applicant has provided no explanation for this second questionnaire, nor any evidence that it was submitted to the INS in March 2000. INS (CIS) has no record of receiving the second questionnaire before November 2002. The other two documents submitted on appeal included a second Form I-687 which, though signed by the applicant, identified the applicant as *someone else* – a [REDACTED] as well as an INS interview notice addressed to that same [REDACTED]. Needless to say, these documents do not enhance the applicant's credibility.

Further compounding the applicant's credibility problem is the completely different set of documents he submitted in support of a second, concurrent LIFE application he filed with the Missouri Service Center in May 2003. That application was denied on August 29, 2003 by the National Benefits Center in Chicago, apparently without knowledge of the applicant's pre-existing LIFE application that was still in adjudication at the National Benefits Center in Missouri. The applicant did not appeal the decision. In that parallel proceeding the applicant submitted (1) yet another Form I-687 (the third different version in the file), dated November 10, 1987, (2) another Legalization Front-Desking Questionnaire (also the third version in the file), dated August 10, 1999, (3) two interview notices from the INS purportedly scheduling interviews with the applicant on March 9, 1992 and September 8, 1993 "to determine subclass membership," (4) a Form for Determination of Class Membership in *CSS v. Thornburgh (Meese)*, dated October 30, 1991, (5) a Receipt Notice from the INS, dated November 18, 1991, verifying that it had received a Form I-687 application and a Form I-690 waiver request from the applicant, and (6) letters from two law firms in 1987 and 1991 certifying that they assisted the applicant in seeking legalization during the late 1980s. None of this documentation was submitted in connection with the instant application currently before the AAO on appeal. Nor has the applicant provided any explanation for the complete divergence in supporting materials he submitted in the two proceedings. Adding to the confusion is the fact that the applicant's English-language signature on his second LIFE application and supporting documents 1, 2, and 4 above is completely different in style from the English-language signatures appearing on his initial LIFE application and supporting documentation. In conclusion, since the six documents listed above were not submitted in support of the instant appeal, and their authenticity is doubtful in view of the applicant's general lack of credibility in these LIFE Act proceedings, the AAO gives the materials no evidentiary weight in the adjudication of this appeal.

Finally, it is noted that the applicant is one of many aliens residing in New York City who have furnished questionable photocopied documents of a similar nature in support of their LIFE applications. None of these applicants had pre-existing files with INS (CIS) prior to filing their LIFE applications, in spite of

the fact that they all claim to have previously filed applications or questionnaires with INS. In addition, despite the absence in these files of any Form G-28, Notice of Entry of Representation, the statements on appeal from these aliens are nearly identical in language and content. These factors augment the serious doubts the AAO has discussed throughout this decision about the authenticity of the applicant's documentary evidence.

Based on the entire record in this case, the AAO concludes that the evidence fails to establish that the applicant filed a written claim for class membership in *CSS*, or either of the other legalization lawsuits, *LULAC* or *Zambrano*, before October 1, 2000, as required in 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.