



U.S. Citizenship
and Immigration
Services

identifying data deleted

self-represented

self-represented



FILE:



Office: National Benefits Center

Date: JUN 7 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.

A handwritten signature in black ink, appearing to read "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. 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 record did not establish the applicant 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 asserts that she attended an interview in Los Angeles in 1993. She submits a photocopy of an Immigration and Naturalization Service (INS) form which purportedly recorded the substance of that interview.

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 her LIFE application (Form I-485), filed in May 2002, the applicant asserted that she was eligible for “LIFE legalization” on the basis of a “CSS case pending.” She submitted no documentary evidence, however, that she had filed a claim for class membership in that lawsuit. Nor did she furnish any details about the time frame and circumstances of the alleged CSS class membership claim. The applicant also failed to submit any further information or supporting documentation in response to the initial Notice of Intent to Deny. Only on appeal, after the first denial of her application by the Missouri Service Center, did the applicant assert that she had been interviewed in Los Angeles in 1993. As evidence thereof the applicant submitted a photocopy of a form document from the INS with the applicant’s name and the date “September 30, 1993” handwritten thereon. The form’s pre-printed language stated, in pertinent part, that “[y]ou have submitted an application pursuant to the court agreement in *CSS v. Thornburgh*” and advised the applicant that “you have failed to establish class membership for the following reasons:” There followed a handwritten notation reading: “You stated at previous interview that you did not apply for amnesty before 5/4/88 because you didn’t have the money. Today, 9/30/93, you reaffirm that statement while still under oath.” After the applicant’s case was reopened and a second Notice of Intent to Deny was issued, the applicant submitted another INS form called “Legalization Litigation Case Worksheet,” which contained the applicant’s handwritten name thereon and identified “CS2 Catholic Social Services” as the appropriate “litigation code.”

In the AAO’s judgment, the two documents described above fail to establish that the applicant filed a timely claim for class membership in CSS. Though the applicant asserts she was interviewed in Los Angeles, the INS document dated September 30, 1993 does not identify the office in which the alleged interview was conducted. The document’s handwritten notation refers to another “previous interview” which is not mentioned by the applicant anywhere in the record. The applicant has provided no details about the alleged 1993 interview, much less the earlier referenced interview – such as the address(es) of the interview office(s), the name(s) or description(s) of the INS interviewer(s), or what was discussed – to supplement the brief handwritten description on the INS form. Nor does the INS document include a stamp or other distinguishing features to verify its authenticity and date. As for the “Legalization

Litigation Case Worksheet,” the applicant has not explained how and when she acquired what appears to be an internal INS document. Nor does the sparse information on the form lend itself to easy interpretation. The handwritten circling of “CS2” beneath “litigation code” hardly proves, in and of itself, that the applicant filed a claim for class membership in *CSS*, and it certainly does not show that any such claim was filed before October 1, 2000, as required under section 1104(b) of the LIFE Act. As stated in the decision by the National Benefits Center (the second denial), the INS (now Citizenship and Immigration Services) has no record of sending either of the above documents to the applicant. Moreover, the applicant has not explained why, if the documents actually predate her LIFE application, she did not submit them *with* her application, instead of waiting until her appeal, or even later, to submit them. Applicants were instructed to submit supporting documentation *with* their applications, and the applicant did submit a wealth of other materials with her LIFE application.

For the reasons discussed above, the AAO finds that the documentation of record 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 under section 1104(b) of the LIFE Act.

An applicant for permanent resident status under section 1104 of the LIFE Act must also establish that he or she entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously through May 4, 1988. *See* section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). The record includes a letter from the Hotel Colombia in San Pedro Sula, Honduras, dated September 5, 1995, certifying that the applicant worked for that hotel from 1982 to 1992. This information is consistent with data provided in an Immigrant Petition for Alien Worker (Form I-140) filed on the applicant’s behalf in 1999 that the applicant arrived in the United States in March 1992. The record also includes a photocopy of a U.S. visa issued to the applicant with a stamp recording her admission to the United States on March 21, 1992. Based on the foregoing documentation, it is clear that the applicant did not enter the United States before January 1, 1982 and reside in this country unlawfully for the requisite time period of before January 1, 1982 through May 4, 1988.

For the reasons discussed above, 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.