



U.S. Citizenship
and Immigration
Services

LA



2004 1 8 2004

FILE: [Redacted] Office: NATIONAL BENEFITS CENTER Date:

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. 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, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was originally denied by the Director, Missouri Service Center, and then remanded by the Administrative Appeals Office (AAO). The subsequent decision by the director has been certified to the AAO. The decision will be affirmed. The appeal will be dismissed.

The director 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, the applicant takes issue with the director's denial of his application, asserting that the evidence he has presented demonstrates that he filed a timely application for class membership in CSS with the New York legalization office of the Immigration and Naturalization Service or INS (now, Citizenship and Immigration Services or CIS).

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), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993). 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.

With his application, the applicant submitted photocopies of six successive appointment notices reflecting that the applicant was to be interviewed at INS's New York legalization office regarding the question of his eligibility for class membership in the CSS/LULAC on the following dates: April 25, 1991, July 6, 1992, December 4, 1992, March 25, 1993, November 17, 1993, and April 6, 1994.

On January 5, 2004, the AAO sent the applicant a follow-up communication informing him that, in order to expedite the adjudication of his appeal, he was requested to provide the *original* of the aforementioned photocopied appointment notices. Subsequently, the applicant responded to the AAO's communication, indicating that the original notices requested by the AAO had previously been presented to the examining INS officers at the time he appeared for his interviews at the New York legalization office. The applicant's explanation for his inability to provide originals of the photocopied interview notices appears reasonable under the circumstances. Moreover, while the regulations at 8 C.F.R. § 245a.12(f) indicate that, "[i]n judging the probative value and credibility of the evidence submitted, greater weight will be given to the submission of original documentation," there is no actual *requirement* that original documentation must be submitted.

If authentic, the photocopied interview notices submitted by the applicant could possibly serve as evidence of a claim by the applicant for class membership in *CSS/LULAC* prior to October 1, 2000. However, there is no record of CIS ever having generating these notices. Moreover, it would appear highly irregular that an applicant for class membership would have been called in for as many as six successive interviews during a three-year

period without having a file created on his behalf. Nor has the applicant provided any accompanying documentation to account for *why* it would have been necessary to schedule so many consecutive interviews. These unresolved questions create considerable suspicion regarding the authenticity of the applicant's documentation.

Along with his application, the applicant also submitted the following:

- a Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, which was purportedly signed by the applicant on April 20, 1991; and
- a Form for Determination of Class Membership in *CSS v. Thornburgh (Meese)*, which was also allegedly signed by the applicant on April 20, 1991.

An examination of the Form I-687 and the determination form submitted by the applicant discloses that they are completed in ink and bear "live" signatures. As such, these constitute original documents, rather than photocopies of what the applicant is claiming he had submitted in the past. 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 would only have photocopies to furnish now 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 file was ever created in the name of the applicant until he filed his LIFE application on July 6, 2001. These factors raise further questions as to the credibility of the applicant's documentation as well as his claim to eligibility for adjustment of status under the LIFE Act.

Given his failure to establish having filed a timely written claim for class membership, along with numerous questions regarding the credibility of his documentation, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

ORDER: The decision is affirmed. The appeal is dismissed. This decision constitutes a final notice of ineligibility.