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U.S. Citizenship  
and Immigration  
Services

L2

FILE:

Office: National Benefits Center

Date: JUN 25 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 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 asserts that he qualifies for LIFE legalization because he filed an affidavit of circumstances (questionnaire) with the Immigration and Naturalization Service (INS), Vermont Service Center, claiming class membership in the lawsuit of *CSS v. Meese, infra*, before the February 2, 2001 deadline indicated in the instructions. The applicant also asserts that other individuals in similar situations had their applications approved.

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 a copy of a Legalization Front-Desking Questionnaire, dated January 21, 2000, in which he claims that an INS officer in Houston, Texas, had refused to accept (*i.e.*, “front-desked”) his application for legalization under the Immigration Reform and Control Act of 1986 (“IRCA”) when he tried to file it during the one-year filing period of May 5, 1987 to May 4, 1988. The applicant’s file includes the *original* of the front-desking questionnaire, which was stamped as received by the INS Vermont Service Center on January 29, 2001. In order to qualify for late legalization under the LIFE Act, however, an alien must demonstrate that he or she had filed a written claim for class membership in one of the legalization lawsuits before October 1, 2000. The applicant’s Legalization Front-Desking Questionnaire did not meet the statutory filing deadline and thus does not constitute a timely claim for class membership in one of the legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*.

On appeal the applicant submitted a statement asserting that he qualified as having filed for class membership under section 1104 of the LIFE Act because he submitted the Legalization Front-Desking Questionnaire before February 2, 2001, the deadline indicated in the instructions. The applicant claimed that the questionnaire (a) was listed on a flyer the INS sent to the applicant entitled “Examples of a Written Documentation for Claim for Class Membership,” (b) was therefore *ipso facto* proof of the applicant’s written claim for class membership in *CSS*, *LULAC*, or *Zambrano*, and (c) had its own deadline for submission which the applicant satisfied.

The February 2, 2001 deadline served another purpose unrelated to claims for class membership in the legalization lawsuits, as is apparent in the instructions issued by the INS for the Legalization Front-Desking Questionnaire. The instructions advised, in pertinent part, that “[y]ou may submit this

questionnaire if you attempted to file a legalization (amnesty) application . . . between May 5, 1987 and May 4, 1988 but the INS . . . refused to accept the application. . . . If the INS finds that you were 'front-desked' you will be allowed to file a legalization application on form I-687, or to have a previously filed I-687 adjudicated." In other words, by filing a questionnaire before February 2, 2001 the applicant could become eligible to have his Form I-687 application adjudicated as if it had been filed during the original filing period for legalization under IRCA in 1987-88. The applicant's original Legalization Front-Desking Questionnaire has a notation in red ink that reads "approved, 12-27-01." In a letter to the applicant dated January 8, 2002, which was returned as undeliverable, the Vermont Service Center advised of its approval and instructed the applicant to file a Form I-687 with the Texas Service Center. A copy of the letter is enclosed with this decision. An I-687 application, however, is for *temporary* resident status. It is not the same thing as a Form I-485 application for *permanent* resident status under the LIFE Act.

Here, in the current proceeding, the applicant has applied on Form I-485 for permanent resident status under the LIFE Act. The basic statutory requirement, set forth in section 1104(b) of the Act, is that the applicant must have filed a written claim for class membership in one of the requisite legalization lawsuits by October 1, 2000. Since the applicant's Legalization Front-Desking Questionnaire was not filed with the Vermont Service Center until January 29, 2001, under the LIFE Act it does not constitute evidence of a timely, and therefore legally valid, claim for class membership in one of the legalization lawsuits.

In response to the first Notice of Intent to deny the applicant submitted a photocopied Form I-687, Application for Status as a Temporary Resident, and a Form for Determination of Class Membership in *CSS v. Reno*, both of which bear the applicant's signature and the date January 24, 1994. The applicant furnished no evidence, however, such as postal receipts or acknowledgement letters from the INS, that either of these documents was actually submitted to the agency in 1994. Nor does Citizenship and Immigration Services (CIS), successor to the INS, have any record of receiving the documents before September 2002, in response to the initial Notice of Intent to Deny the instant LIFE application. If the applicant truly had copies of the I-687 and *CSS* class membership determination forms in his possession since 1994, he would presumably have furnished them to the INS along with the questionnaire the Vermont Service Center received on January 29, 2001, since the instructions requested the submission of all supporting documentation. Moreover, the applicant does not explain why, if these documents were truly in his possession the entire time, she did not submit both of them with his subsequent LIFE application. Once again, applicants were advised to provide supporting evidence *with* their LIFE applications, and the Legalization Front-Desking Questionnaire *was* submitted with the application.

It must also be noted that the documents submitted by the applicant in this proceeding are the same as those provided by numerous other LIFE Act applicants who did not disclose their actual addresses on their applications, but rather showed the same P.O. Box in Houston. These aliens do not claim to be represented, and yet they all file the same lengthy statements in rebuttal and/or on appeal. These factors raise grave questions about the authenticity of the subject documents.

It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. See *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The applicant provides no additional evidence on appeal that either the I-687 form or the class membership determination form was actually prepared and submitted to INS in January 1994. Based on the entire record,

it is concluded that the photocopied I-687 and CSS class membership determination forms submitted by the applicant in this LIFE Act proceeding do not establish that there were original documents which were actually submitted to INS in 1994, or any time prior to October 1, 2000.

The applicant's last contention is that two other individuals in similar situations had their applications approved after originally being denied. The applicant has submitted copies of Service Motions to Reopen and Reconsider those cases in which the CIS approved Form I-765 and Form I-131 applications for the respective applicants. Those approvals were for employment and travel authorization, however, not permanent resident status under the LIFE Act. The applicant has furnished no evidence that either of those applicants filed a Form I-485 LIFE application. Thus, the cases cited by the applicant, and the rulings issued thereon, have no bearing upon the LIFE application at issue here.

Based on the entire record in this matter, it is clear that the applicant has failed to establish that he 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 to be eligible for legalization 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.