

L2



U.S. Citizenship
and Immigration
Services



FILE:



Office: National Benefits Center

Date:

JUN 11 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. 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

U.S. DEPARTMENT OF HOMELAND SECURITY
U.S. CITIZENSHIP AND IMMIGRATION SERVICES
NATIONAL BENEFITS CENTER
1000 ...

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, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The directors 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 states that on March 10, 1997, his papers were reviewed by an officer at the Immigration and Naturalization Service (INS) office at [REDACTED]. The applicant further states that the officer gave him an appointment for May 15, 1997 at 8:45 a.m. The applicant then explains that on May 15, 1997, the officer told him that he didn't have enough documents and that he had failed to establish a class membership. The applicant indicates that on September 9, 1997, he went back to the same officer and that the Officer In Charge told him he was not eligible because he did not have any proof of his emergency on September 23, 1987. The applicant resubmits documents for consideration and requests that his application be approved.

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) (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 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 photocopy of a G-56 appointment notice purportedly issued to the applicant, dated March 10, 1997 scheduling an interview for May 15, 1997; and
- a photocopy of a Form I-72 Notice dated May 15, 1997 from the Immigration and Naturalization Service (INS), now CIS, addressed to the applicant, indicating that he had failed to establish class membership under CSS/LULAC; "You have failed to establish prima facie eligibility for IRCA because you did not have enough documents since prior (to) 1/1/82 to 1899 nor in 1989 to the present time."

In response to a notice of intent to deny dated February 5, 2002, he resubmitted the above two documents. In response to the second notice of intent to deny dated July 11, 2003, the applicant submitted:

- an undated photocopy of a Form I-687 Application for Status as a Temporary Resident under section 245A of the INA signed by the applicant;
- an undated photocopy of a Form for Determination of Class Membership in *CSS v. Thornburgh* signed by the applicant;

On appeal, the applicant resubmitted previously furnished documents and forwarded:

- a photocopy of a Form I-72, dated September 16, 1991, in which the Immigration and Naturalization Service (INS) purportedly advised the applicant that it was unable to process his application because: "You stated under oath that you left the country on 09-23-87; however you do not have any proof of that exit." The Form I-72 is addressed to "Hipalito Mentes," (Emphasis supplied), a name that is close to, but not exactly the applicant's name. Also, the I-72 carries an A-file number of [REDACTED] that the director found had not been issued to the applicant.

Citizenship and Immigration Services (CIS), successor to the INS, has no record of sending or providing any of the above documents to the applicant or having received a Form I-687 or a Form for Determination of Class Membership in *CSS v. Thornburgh* from him until the instant LIFE application was filed on January 4, 2002. To be eligible for permanent resident status under section 1104(b) of the LIFE Act the applicant must show that after failing to file during the May 5, 1987 and May 4, 1988 period, he filed a claim for class membership in one of the legalization lawsuits sometime before October 1, 2000. The applicant has not furnished any evidence, such as a postal receipt or an acknowledgement letter from the INS, that either of the above two forms were filed with the INS on a date before October 1, 2000. As indicated above, CIS has no record of receiving either of these documents from the applicant until the instant LIFE application was filed in January 2002, long after the statutory deadline to file a claim for class membership one of the legalization lawsuits.

The applicant has furnished no further evidence on appeal that any of the four documents discussed above were filed with the INS before October 1, 2000. Thus, none of them can be considered evidence of a timely, and therefore legally valid, claim for class membership. Accordingly, the applicant is ineligible for permanent resident status under section 1104(b) of the LIFE Act.

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

5/17/04/AAORRL01/A93414415.LIFE