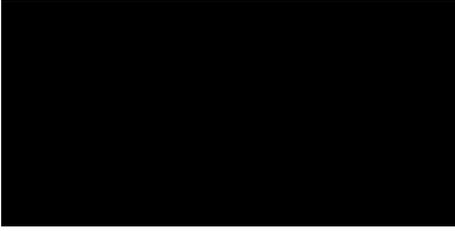




U.S. Citizenship
and Immigration
Services

12



FILE:



Office: National Benefits Center

Date:

10/26/2004

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 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

Administrative Appeals Office
U.S. Department of Homeland Security
Washington, DC 20529

10/26/2004

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Missouri Service Center, and is now before the Administrative Appeals Office on appeal. 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 states that he is a legalization applicant, that he had submitted an I-697 [sic] petition to the INS and that he attended an interview at the INS office at Hialeah, Florida on February 4, 1992 to determine his sub class membership. The applicant further states that after the interview, the INS officer informed him that a decision would be mailed to him later.

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.

Along with his LIFE application, the applicant provided the following:

- a photocopied G-56 appointment notice from the Legalization Office of the INS in Hialeah, Florida dated "29 Apr 91" purportedly scheduling an interview with the applicant on February 4, 1992. The reason for the appointment is illegible and the document is stamped "Employment Not Authorized."
- a "Legalization Questionnaire," bearing his signature and dated November 14, 2001, in which he asserted that he did not file an application for legalization under section 245A of the INA between May 5, 1987 and May 4, 1988 because after he explained that he had traveled outside the United States to visit his sick father, the INS agent returned his application and told him that he did not qualify for amnesty because he had left the United States.

Citizenship and Immigration Services (CIS), successor to the Immigration and Naturalization Service (INS), has no record of having sent the G-56 appointment letter to the applicant. Even had it been sent to him, it does not state the reason for the appointment. Also, it is unlikely that an appointment letter would have been issued in April 1991 for an appointment as distant as February 1992. Additionally, CIS has no record of receiving the legalization questionnaire from the applicant until the instant LIFE application was filed on November 15, 2001.

Along with the notice of intent to deny, the applicant included a photocopy of a Form I-687, Application for Status as Temporary Resident under Section 245A of the Immigration and Nationality Act, dated April 29, 1991. The applicant does not explain *why*, if the Temporary Resident application were in his possession the entire time, he did not submit it with his LIFE application, as applicants were advised to provide evidence *with* their applications.

To be eligible for permanent resident status under section 1104(b) of the LIFE Act the applicant must show that after failing to file for temporary residence (legalization) 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 the legalization questionnaire and the Form I-687 were filed with the INS on a date before October 1, 2000. CIS has no record of receiving either of these documents from the applicant until the instant LIFE application was filed on November 15, 2001. That was long after the statutory deadline to file a claim for class membership one of the legalization lawsuits.

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).

The applicant has furnished no further evidence on appeal that either of the two documents discussed above were filed with the INS before October 1, 2000. Thus, neither 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.