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Washington, DC 20536



U.S. Citizenship
and Immigration
Services

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LA

MAR 11 2004

FILE:

Office: National Benefits Center

Date:

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.

for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was initially 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 any of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, the applicant initially submitted copies of a Form I-687 and a Form for Determination of Class Membership in *CSS v. Meese*. Later, the applicant resubmitted his Form I-687, accompanied by some itemized statements of earnings from the Social Security Administration, and a letter asserting that he had refrained from filing an application for legalization under section 245A of the Immigration and Nationality Act during the original filing period on the advice of an official at the Salinas, California INS Office. The applicant asserts that "I tried to submit my application for classification on two different occasions and was turned away by the window clerk of the INS office at Los Angeles."

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.

The applicant filed an application in March 1988 for temporary resident status as a special agricultural worker (SAW) under section 210 of the Immigration and Nationality Act (INA), which was added to the INA pursuant to the Immigration Reform and Control Act of 1986 (IRCA). The SAW application was denied by the Western Service Center on September 6, 1991. The applicant filed an appeal, which was dismissed by the AAO on April 26, 2001. An application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits, as required under section 1104(b) of the LIFE Act. Furthermore, the LIFE Act contains no provision allowing for the reopening and reconsideration of an application for temporary resident status as a special agricultural worker under section 210 of the INA.

When he filed his LIFE application the only document the applicant furnished in support of his alleged claim for class membership was a "Form for Determination of Class Membership in *CSS v. Meese*." In and of itself the form does not constitute a timely claim for class membership in *CSS* because it was dated December 13, 2001, which is after the statutory deadline of October 1, 2000, and contains no information that any earlier claim for class membership had been filed. In response to the notice of intent to deny by the Missouri Service Center, the applicant submitted a photocopy of another "Form for Determination of Class Membership in *CSS v. Meese*," with a different typeset and somewhat different answers from the applicant. This form, unlike the one previously submitted, bears the date September 12, 2000. There is no record at Citizenship and Immigration Services (formerly the Immigration and Naturalization Service), however, that the class membership form dated September 12, 2000, was actually submitted at that time. If it had been, it almost certainly would have been routed to the applicant's pre-existing A-file. The applicant has not furnished any evidence, such as a postal receipt, that he sent the form to INS in September 2000. In fact, the form was not received by this agency until February 11, 2002, as part of the applicant's response to the Missouri Service Center's notice of intent to deny. This was long after the statutory deadline of

October 1, 2000, to file claims for class membership in the legalization lawsuits. *See* section 1104(b) of the LIFE Act.

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).

In response to the Missouri Service Center's notice of intent to deny, the applicant also submitted a photocopy of a letter to Attorney General [REDACTED] dated September 12, 2000, in which the applicant purportedly sought to be registered as a class member in CSS. Pursuant to 8 C.F.R. § 245a.10, a *written claim for class membership* means a filing, in writing, in one of the forms listed in § 245a.14, which provides the Attorney General with notice that the applicant meets the class definition in the cases of CSS, LULAC or Zambrano. The letter in this case does not constitute a "form" and does not equate to the actual forms listed in 8 C.F.R. § 245a.14, although that regulation states that other "relevant documents" may also be considered. The applicant's brief letter, however, does not even begin to imply that he could qualify for CSS class membership because it does not provide any relevant information upon which a determination could be made. Moreover, the applicant does not explain *why*, if this letter were truly 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.

It must be noted that the applicant is one of many aliens who furnished such identically-worded letters (all dated in September 2000) only after receiving letters of intent to deny, rather than simultaneously with their LIFE applications. All of these aliens had their LIFE applications prepared by [REDACTED] of a California company called Professional Tax Service, Inc. *None* of these aliens has provided any evidence, such as postal receipts, which might help demonstrate that the letters were actually sent to the Attorney General. Given the importance of the letters, it is reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail. Lastly, the statements on appeal submitted by these aliens, none of whom asserts to be represented by counsel, are identical. All of these factors raise grave questions about the authenticity of the letter that the applicant purportedly sent to the Attorney General.

The photocopy of the applicant's letter to the Attorney General does not establish that the original was actually received by the office of the Attorney General or by the Immigration and Naturalization Service (CIS) in September 2000. The applicant has not provided any evidence, such as a postal receipt, that could help to show that he actually sent the subject letter to the Attorney General in September 2000, as alleged. In fact, there is no record that the subject letter was ever received prior to February 11, 2002, the date it was received by the Missouri Service Center in response to the director's notice of intent to deny the instant application. This was long after the statutory deadline of October 1, 2000, for filing a written claim for class membership. *See* section 1104(b) of the LIFE Act.

On appeal, the applicant offers no further explanation or details about the letter to the Attorney General, or the Form for Determination of Class Membership in CSS v. Meese. Based on the foregoing discussion, and the entire record in this case, it is concluded that the Form for Determination of Class Membership in CSS v. Meese, dated September 12, 2000, and the letter to the Attorney General, likewise dated September 12, 2000, are *not* true copies of authentic documents.

As to the applicant's Form I-687, Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act), there is nothing on that form demonstrating that the applicant filed a claim for class membership in CSS, or either of the other two legalization lawsuits, as required to be

eligible for legalization under section 1104 of the LIFE Act. The photocopied I-687 bears the date January 26, 1988, which was during the one-year filing period prescribed by the Immigration Reform and Control Act of 1986 (IRCA) for filing section 245A applications for legalization. The applicant asserts that the INS rejected (*i.e.*, "front-desked") his I-687 application at the Salinas, California office on January 27, 1988, and on two subsequent occasions at the INS office in Los Angeles. Even if that were the case, however, the front-desking of an I-687 application is not the same thing as filing a claim for class membership in one of the legalization lawsuits. After being front-desked it was incumbent upon the applicant to file a written claim for class membership in CSS (or one of the other two lawsuits) with the Attorney General (*i.e.*, with the Immigration and Naturalization Service) before October 1, 2000, to be eligible for legalization under the LIFE Act. As previously discussed, the evidence of record does not demonstrate that any such claim was filed.

For the reasons discussed herein, 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*, prior to October 1, 2000, as required 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.