

Identify the parts related to
protect identity and warrantable
invasion of personal privacy

PHOTOCOPY

Handwritten signature/initials

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services



FILE: [Redacted]

Office: NATIONAL BENEFITS CENTER

DATE: MAY 19 2004

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. 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.

Handwritten signature of 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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

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 asserts that, on August 15, 1990, he appeared at the New York legalization office of INS (now, Citizenship and Immigration Services, or CIS) for the purpose of an interview to determine his eligibility for class membership in the CSS class-action lawsuit, but was informed that he was ineligible.

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 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.

Pertinent regulations provide an illustrative list of documents that an applicant may submit to establish that he or she filed a written claim for 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. Furthermore, those regulations require Citizenship and Immigration Services (CIS) to determine whether an alien filed a written claim for class membership as reflected in CIS indices and administrative files.

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

- a photocopied Form for Determination of Class Membership in CSS v. Meese, signed by the applicant on August 10, 1990;
- a photocopy of a notice dated August 13, 1990, reflecting that the applicant was to be interviewed on August 15, 1990 at CIS's New York legalization office, regarding the question of his eligibility for class membership in the CSS or LULAC lawsuits;
- a personal statement signed by the applicant, in which he affirmed that, on March 11, 1988, he had unsuccessfully attempted to file an application for legalization with a qualified designated entity (or QDE) , and that, on August 15, 1990, he had unsuccessfully attempted to file a written claim for class membership in CSS; and
- a photocopied communication dated April 8, 1988 from Danuta Sobczynski of the Polonia Organizations League, Inc., a qualified designated entity located in New York City, indicating their organization was

unable to accept, due to reasons of ineligibility, the applicant's Form I-687 Application for Status as a Temporary Resident under Section 245A of the INA.

In his Notice of Decision of February 6, 2003, the director indicated that the evidence provided by the applicant failed to establish his having filed a written claim for class membership. If the director entertained doubts regarding the authenticity of the photocopied appointment notice provided by the applicant, he could have opted to require that the applicant supply the original of that document. In this case, the appointment notice also includes an INS date-receipt stamp at the bottom of the document which, upon examination, appears to be genuine.

The applicant, on appeal, also submits affidavits from three acquaintances, all of whom attest to his having been present at the New York legalization office on August 15, 1990 for his CSS class membership interview. In this case, the affidavits submitted by the applicant tend to support the applicant's assertion that he did, in fact, present himself to the New York legalization office on the date in question for a determination regarding his eligibility for class membership.

The photocopied communication from the Polonia Organizations League, a New York-based private voluntary organization accredited as a qualified designated entity (or QDE), indicates it rejected the applicant's I-687 application due to his failure to establish eligibility. This communication is dated *March 11, 1988*, which coincides with the May 5, 1987 to May 4, 1988 period for applying for legalization under IRCA. This, in turn, lends further credibility to the applicant's claim that he was initially dissuaded from applying for legalization and subsequently chose to file for class membership in the CSS lawsuit.

The applicant in this case has provided evidence of the type set forth in 8 C.F.R. § 245a.14 indicative of having filed a timely claim for class membership in the CSS legalization class-action lawsuit. The documentation submitted by the applicant throughout the application process appears to be consistent and convincing and serves to corroborate the applicant's claim. Therefore, it is concluded that the applicant has established eligibility for class membership. The director shall forward the record to the appropriate district office for the purpose of interview and a full adjudication of the application.

ORDER: The appeal is sustained.