

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

A large, stylized handwritten signature in black ink, possibly reading "L.A.", written over the seal.

MAY 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.

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

The director concluded the applicant had not established that she 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 she has submitted documentation establishing that she had requested class membership. She asserts the denial notice lacks specificity.

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 applicant failed to submit any documentation addressing this requirement when the application was filed. On rebuttal to a notice of intent to deny, the applicant provided a photocopy of a letter dated September 11, 2000, supposedly sent to former Attorney General Reno, requesting that the applicant be registered in the *Zambrano* case. Pursuant to 8 CFR § 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 does not constitute a "form" and does not equate to the actual forms listed in 8 CFR § 245a.14, although that regulation also states other "relevant documents" may be considered. However, the very brief letter does not even begin to imply that the applicant could qualify for *Zambrano* 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 her possession the entire time, she did not submit it with her LIFE application, as applicants were advised to provide evidence *with* their applications. In addition, it must be noted that the applicant is one of many aliens who did not furnish such identically-worded letters in the same typeface (virtually all dated from September 14th to September 25th, 2000) with their LIFE applications, and yet provided them only upon receiving letters of intent to deny. It is further noted that all of these aliens had their LIFE applications prepared by M.E. Real of Professional Tax Service, Santa Maria, California. In addition, none of these aliens have 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 would be reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail.

It should also be noted that the statements on appeal submitted by these aliens, all of whom assert that they are not represented by counsel, are identical. These factors raise grave questions about the authenticity of the letter that the applicant purportedly sent to the Attorney General.

Doubt cast on any aspect of the evidence 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. See *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

On appeal, the applicant claims that she provided information regarding her request for class membership but has not been given any specifics as to why her application was denied. However, there is nothing in the record to indicate that she filed an actual claim for class membership. The center director indicated that the photocopy of the letter does not establish that the original was ever received by the office of the Attorney General or by Citizenship and Immigration Services. The director also pointed out that a review of all relevant records failed to disclose any indication of the applicant having made a written claim for class membership.

Given her failure to establish that she filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

In addition, it should be noted that the applicant indicated on her Form I-485 LIFE Application that she last entered the United States on *May 7, 1990*. Pursuant to 8 C.F.R. § 245a.11(b), each applicant must demonstrate that he or she entered the United States prior to January 1, 1982. The applicant offers no evidence of any earlier entry into this country. As such, it appears that she is unable to meet this requirement as well.

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