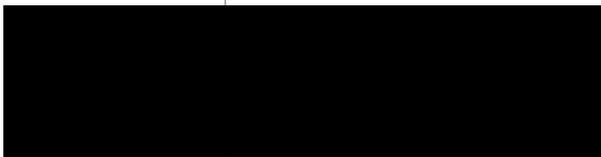




U.S. Citizenship
and Immigration
Services

L 2



PUBLIC COPY

FILE: [Redacted] Office: NATIONAL BENEFITS CENTER

Date:

IN RE: Applicant: [Redacted]

MAY 12 2004

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

Identifying data deleted to prevent release of information that could identify individuals involved in the investigation.

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.

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 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 claims to have sent a request for class membership to the Washington, D.C. office of the U.S. Immigration and Naturalization Service (now Citizenship and Immigration Services, or CIS).

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), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993). See 8 C.F.R. § 245a.10.

In an effort to request class membership in the *Catholic Social Services* (CSS) lawsuit, the applicant submitted a Legalization Questionnaire, dated January 18, 2001, to the Immigration and Naturalization Service (INS). The receipt stamp on the questionnaire shows it was received by INS' Vermont Service Center on February 1, 2001. Thus, it was received after the October 1, 2000 deadline. With the questionnaire the applicant also furnished a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, dated twice, on February 17, 1988 and February 11, 1996. With those documents he also submitted an undated affidavit that described his purported attempts to apply for legalization during the actual filing period of May 5, 1987 to May 4, 1988. All of these documents were received on February 1, 2001, in spite of the fact that the Form I-687 was dated years earlier. It is noted that the Form I-687 was completed and signed in ink. Thus, it is an original document, and cannot be viewed as a true photocopy of an actual application received by INS in 1988 or 1996.

If the applicant had actually submitted the Form I-687 in 1988 or 1996 it would be in the possession of CIS, and the applicant would only have had a photocopy to furnish with his questionnaire on February 1, 2001. An examination of CIS records fails to disclose any evidence of this applicant having previously filed such forms. In fact, no CIS file was ever created in the name of the applicant until he filed the questionnaire, the Form I-687, and the affidavit on February 1, 2001.

With his LIFE application, filed on October 3, 2001, the applicant furnished photocopies of the questionnaire and affidavit mentioned above. Upon receiving a notice of intent to deny, the applicant again submitted a photocopy of the questionnaire. However, it had been altered to show the date of signature as January 18, 2000, instead of 2001. It clearly cannot be accepted as proof that the applicant actually submitted the questionnaire a year earlier.

On appeal the applicant provided another photocopy of the questionnaire, this time with the correct date of January 18, 2001. He also maintained that CIS was applying a wrong deadline to the LIFE cases, and stated that the correct deadline for requesting class membership was February 2, 2001, as set forth in instructions previously released by INS.

However, the instructions for filing questionnaires were written before the passage of the LIFE Act. Those instructions related only to the February 2, 2001 deadline for attempting to obtain class membership in the legalization class-action lawsuits. The aliens that acquired class membership will eventually be notified as to how they may proceed under the litigation settlement. That settlement is entirely outside the scope of this current proceeding under the LIFE Act.

Here, *in the current proceeding*, the applicant has not applied for class membership in a lawsuit but rather has applied directly to CIS for permanent residence under the LIFE Act. The basic statutory requirement of filing for class membership by October 1, 2000 must still be met in all LIFE cases, regardless of the previously-authorized administrative deadline established for filing questionnaires. The applicant has not shown that he has met that requirement.

It must be noted that the applicant is one of many aliens whose LIFE applications were prepared by Mario E. Carretero, an immigration consultant in Chicago. Although he has also signed the appeals, Mr. Carretero is not an accredited representative or otherwise authorized to represent aliens in proceedings before CIS.

Furthermore, all of his cases reviewed by this office thus far are the same in that all of the aliens claim to have requested class membership in the CSS lawsuit, rather than *Zambrano* or LULAC. They all claim to have been absent from the United States in 1987 or 1988, which could qualify them for CSS consideration, and they all claim to have returned within 45 days, which would allow them to be considered to have still maintained continuous residence for legalization purposes.

Also, although LIFE applicants must demonstrate that they resided in the United States from January 1, 1982 to May 4, 1988, pursuant to 8 C.F.R. 245a.11(b), virtually none of these aliens, including this applicant, has provided any of the contemporaneous documents relating to residence during that period that are listed in 8 C.F.R. 245a.2(d)(3), such as pay stubs, W-2 forms, bills, school and medical records, receipts, licenses, registrations, and birth certificates of children born in the United States. Most of the affidavits he and the other applicants have provided attesting to their residence for the 1982-88 period are in the same stylized format with the same typeface, and they are identically-worded "fill in the blank" statements. Although they live in different parts of Chicago and its suburbs, virtually all of the aliens, including this applicant, provide an affidavit attesting to membership in the same parish in Chicago. These factors and commonalities raise additional questions as to the eligibility of the applicants for adjustment of status under the LIFE Act.

The applicant has provided two original, signed employment letters dated March 14, 1987 and November 15, 1990, attesting to his employment since 1981. The letters simply do not appear to have been written over 17 and 13 years ago, and in fact do not appear to be any older than the other material dating from

2001 which was furnished with the questionnaire. If these letters were actually written that long ago, presumably to be used for some purpose at that time, it is not known why the applicant would have still had them to submit with his request for class membership.

Given his failure to establish having filed a timely written claim for class membership, and the dubious nature of his documentation, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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