



U.S. Citizenship
and Immigration
Services

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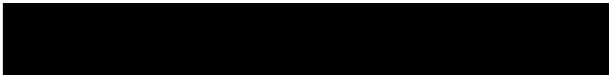
FILE:



Office: NATIONAL BENEFITS CENTER

Date:

IN RE: Applicant:



MAR 17 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

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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 states he has submitted documentation establishing that he had requested class membership. He 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.

An examination of the record of proceedings discloses that the applicant submitted a Form I-700 Application for Temporary Resident Status as a Special Agricultural Worker (SAW) under section 210 of the INA, which was signed by the applicant on July 21, 1988 and filed on August 17, 1988. The application was denied on March 31, 1992 and the applicant's appeal to the denial of his application was dismissed by the AAO on June 24, 1999. In any case, an application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits. Furthermore, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status as a special agricultural worker under section 210 of the INA.

Along with his LIFE application, the applicant submitted a photocopied a Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (INA), which was purportedly signed by the applicant on July 21, 1988 -- the exact same date as that included on the applicant's SAW application. This date would have been *after* the May 5, 1987 to May 4, 1988 deadline for applying for temporary residence (legalization) under section 245A of the INA. While this photocopied I-687 application could possibly serve as evidence of being "front-desked" or otherwise discouraged or prevented from applying for legalization under section 245A of the INA, it does *not* by itself constitute an application for class membership under any of the aforementioned class-action lawsuits. Nor is there any indication in Service electronic or administrative records that this photocopied I-687 application was ever actually filed by the applicant or that it was ever received by the Immigration and Naturalization Service or the Service (now, Citizenship and Immigration Services or CIS). Moreover, while the applicant in this case had a *prior* Service file in connection with his aforementioned 1988 SAW application, the photocopied I-687 application was not included in the applicant's file until his LIFE application was filed on October 3, 2002. These factors serve to create considerable skepticism regarding the authenticity and credibility of the applicant's documentation accompanying his LIFE application.

On rebuttal to a notice of intent to deny, the applicant provided a photocopy of a letter dated September 23, 2000, supposedly sent to former Attorney General Reno, requesting that the applicant be registered in the *CSS v. Meese* 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 *CSS v. Meese* 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. 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 [REDACTED] 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).

Given his failure to establish that he filed a written claim for class membership, 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.