



U.S. Citizenship
and Immigration
Services

FILE:

Office: NATIONAL BENEFITS CENTER

Date: Mar 28 2004

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:

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 your case 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 initially denied by the Director, Missouri Service Center. The matter was subsequently reopened and denied again by the Director, National Benefits Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In both decisions, the directors 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 from the initial denial, counsel asserted that the applicant's A-number is sufficient proof that he is a class member. Counsel provided a statement from the applicant and additional photocopies of previously submitted documentation to supplement the appeal.

The record shows that subsequent to the reopening of the case, counsel submitted additional material to supplement the appeal. Therefore, this material shall be incorporated into the applicant's appeal.

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 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.

With his LIFE Act application, on rebuttal, and on appeal, the applicant submitted a photocopies of the following documents:

- a "Form for Determination of Class Membership in CSS v. Meese" that is signed by the applicant and dated December 3, 1995, and;
- an undated and incomplete (only the first three pages without the fourth and final page) Form I-687, Application for Status as a Temporary Resident under section 245A of the Immigration and Nationality Act (INA), or legalization application.

These documents are listed in 8 C.F.R. § 245a.14 as examples of documents which may be furnished in an effort to establish that an alien had previously applied for class membership. Although the determination form is dated December 3, 1995, the record contains no evidence that either this document or the undated and incomplete Form I-687 legalization application were submitted to the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Service, or CIS) prior to the filing of the LIFE Act application on May 19, 2002.

On rebuttal from both notices of intent to deny, as well as on appeal from the initial denial, counsel asserted that applicant's alien registration number (A-file number) is sufficient to demonstrate that he had applied for class membership. According to counsel, A-numbers assigned to CSS, LULAC, and Zambrano applicants by the Houston, Texas office of Citizenship and Immigration Services (CIS) usually commenced with the numerical prefix "93" [the A-number assigned to the applicant's LIFE Act application is ██████████]. According to counsel, this should be sufficient to establish the applicant meets the statutory requirement for eligibility under the LIFE Act. While some ██████████ numbers were issued to CSS, LULAC, and Zambrano applicants, other ██████████

were issued to aliens when they applied for permanent residence under the LIFE Act. That is the case here; the applicant filed his LIFE application on May 19, 2002, and CIS created file, [REDACTED] and assigned that A-number to the applicant.

In response to the second notice of intent to deny, counsel submitted photocopies of the following documents:

- a complete but still undated legalization application;
- a photocopy of a Form G-28, Notice of Entry of Appearance as Attorney or Representative, that is dated October 7, 1995, and reflects the applicant consenting to counsel's representation, and;
- a pre-printed declaration that is signed by the applicant and dated October 7, 1995, in which he requested to be interviewed regarding eligibility for CSS class membership.

Documents such as those listed above may be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. § 245a.14(d). However, neither the applicant nor counsel offered any explanation as to *why*, if such documents were in either of the respective parties possession since at least October 7, 1995, these documents were not submitted with the LIFE Act application. Applicants were instructed to provide qualifying evidence *with* their applications and the applicant did include other supporting documentation with his LIFE Act application. There is no evidence that the applicant had a pre-existing file prior to filing of his LIFE applications in spite of the fact that he claims to have previously filed various forms and applications with the Service relating to class membership. These factors raise serious questions regarding the authenticity of the applicant's claim that he filed for class member and supporting documentation.

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 this case, the applicant did not possess a CIS file prior to the filing of his LIFE Act application on May 19, 2002. These factors serve to create considerable skepticism regarding the authenticity and credibility of the applicant's documentation. Given these circumstances, it is concluded that the photocopied documents provided in support of the applicant's claim to class membership cannot be deemed as credible documents.

The applicant has failed to submit documentation which credibly establishes his having filed a timely written claim for class membership in one of the aforementioned legalization class-action lawsuits. 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.