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U.S. Citizenship
and Immigration
Services



FILE:



Office: NATIONAL BENEFITS CENTER

Date: MAY 18 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: 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.

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 asserts that he had filed a timely claim for class membership, and requests additional time in which to submit further evidence in support of his application. As of this date, however, no further evidence has been submitted into the record.

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.

Along with his application, the applicant submitted the following:

- a photocopy of a letter dated *September 18, 2000*, supposedly sent to former Attorney General Janet Reno, requesting that the applicant be registered in the *CSS v. Meese* case; and
- a photocopy of an I-705 Affidavit Confirming Seasonal Agricultural Employment of an Applicant for Temporary Residence Status under Section 210 of the Immigration and Nationality Act (INA).

The I-705 affidavit, normally filed in conjunction with a Form I-700 Application for Temporary Resident Status as a Special Agricultural Worker (SAW) under section 210 of the INA, is incomplete. The affidavit not only lacks any information on the applicant, as required in section A of the form, but does not contain the applicant's signature. Such a document can have no probative or evidentiary value. Moreover, there is no indication that the applicant ever *filed* a special agricultural worker (SAW) application since, if he had, an Alien Registration File (or A-file) would have been created at that point. Yet, there is no indication the applicant had *any* prior file with the Immigration and Naturalization Service or INS (now, Citizenship and Immigration Services or CIS) until his LIFE application was received on May 31, 2002. As he did not file a SAW application, there would be no reason for his having completed a corresponding I-705 affidavit. Furthermore, even if the applicant *had* filed a timely I-700 application, an application for SAW status does *not* constitute an application for class membership in any of the legalization class-action lawsuits.

In addition to the photocopied I-705 affidavit, the applicant submitted a photocopy of a letter dated *September 18, 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 in this case 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.

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.

Subsequently, in response to the Notice of Intent to Deny, the applicant submitted a photocopy of yet another letter to Attorney General Reno, this one dated *September 22, 2000*, also requesting that the applicant be registered in *CSS v. Meese*. However, there would be no logical reason for an applicant to send *two consecutive letters* to Attorney General Reno within 5 days of one another, each requesting class membership in the *CSS v. Meese* class-action legalization lawsuit. This subsequent request by the applicant to the Attorney General serves to further undermine the credibility of the applicant's claim and documentation.

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).

The applicant, on appeal, asserts that on a prior, unspecified date, he appeared at the Los Angeles office of INS where he allegedly filed a timely application for class membership. However, according to the applicant, he never thereafter received any subsequent information concerning the status of that application. Nevertheless, the applicant has submitted no additional, independent, credible evidence to support this assertion.

Given his failure to submit credible evidence establishing that he filed a timely 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.