



U.S. Citizenship
and Immigration
Services



La

FILE: [Redacted] Office: NATIONAL BENEFITS CENTER

Date:

IN RE: Applicant: [Redacted]

MAY 2000

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

PUBLIC COPY

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

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. The regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

The applicant filed this LIFE application on March 7, 2002. She submitted a Form I-687, Application for Status as Temporary Resident under Section 245A of the Immigration and Nationality Act, dated February 10, 1988, to the INS Texas Service Center in a separate proceeding on March 11, 2002. With Form I-687 she also furnished a Legalization Questionnaire dated November 19, 1999, and an undated affidavit that described her purported attempts to apply for legalization during the actual filing period of May 5, 1987 to May 4, 1988.

The Form I-687 and the affidavit were completed and signed in ink, and the Legalization Questionnaire bears a "live" signature in ink. Thus, these are original documents, rather than photocopies of what the applicant is claiming she had submitted in the past. If the applicant had actually submitted any of these documents prior to October 1, 2000, they would be in the possession of CIS, and the applicant would have only had photocopies to furnish in March 2002. An examination of CIS records fails to disclose any evidence of this applicant having previously filed such forms at the Washington, D.C. office or any other office prior to October 1, 2000. In fact, no CIS file was ever created in the name of the applicant until she filed this LIFE application on March 7, 2002.

On appeal the applicant has submitted a copy of a notice from the Vermont Service Center (VSC) of INS dated May 16, 2002 that states, "You have submitted an I-687 that is being filed based upon the approval of your legalization questionnaire. The I-687 needs to be filed at the Texas Service Center. Please follow the instructions on the approval notice...." That Form I-687 is in the record and is the one described above. Although it shows that it was signed on February 10, 1988, receipt stamps show it was received

by the Texas Service Center (TSC) on March 11, 2002, and later by VSC on May 3, 2002, before it was sent to the Missouri Service Center to be included in the LIFE file.

In a program instituted prior to the LIFE Act VSC adjudicated legalization questionnaires and, in cases it granted, advised the applicants to then file I-687 forms at TSC. In such cases VSC created files relating to the aliens. No file was created by VSC in this case, and no file number appears on the notice sent to the applicant on May 16, 2002. It appears that what happened in this case is the applicant mistakenly sent Form I-687 to TSC without an approval notice (regarding a questionnaire) from VSC. The Form I-687 was evidently rejected by TSC because of the lack of approval of a questionnaire, and the applicant then sent the Form I-687 to VSC. VSC, assuming that a questionnaire must have been granted because the applicant was trying to file Form I-687, advised the applicant to file Form I-687 with the approval notice for a questionnaire at TSC. However, there was no approval notice, and indeed the applicant states on appeal that she never received such approval notice. There is no evidence that VSC had previously adjudicated and approved a questionnaire from the applicant. The notice from VSC instead should have told the applicant that *if* she had received an approval notice for a questionnaire, she should file her Form I-687 at TSC.

In summary, while the applicant was filing this LIFE application in March 2002 she was also pursuing a request for class membership by submitting Form I-687 and the questionnaire to VSC and TSC. However, there is no indication she had actually submitted those forms prior to the LIFE deadline of October 1, 2000. Had she sent a questionnaire to VSC prior to March 2002, and had that center ruled favorably on the questionnaire, it would have created a file, and an approval notice would have been generated which would have shown the file number.

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 *Catholic Social Services* (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. Importantly, virtually none of the aliens had a pre-existing file with CIS prior to the filing of his or her LIFE application, and none had a file prior to the October 1, 2000 deadline for having applied for class membership. None of them has provided any type of individual receipt or letter that was issued to him or her by the Immigration and Naturalization Service prior to October 1, 2000.

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. Although she has submitted some letters from employers referring to her employment in the 1980s, the other affidavits

that she and the other applicants have provided attesting to their residence for the 1982-88 period are all in the same stylized format with the same typeface, and they are all identically-worded "fill in the blank" statements. These factors and commonalities raise additional questions as to the eligibility of the applicants for adjustment of status under the LIFE Act.

The applicant was married in Mexico on December 19, 1987. The marriage certificate shows that she was domiciled in Mexico at the time. Although the applicant indicated on this LIFE application that she last entered the United States on January 15, 1988, her daughter was born in Mexico in 1990. The credibility of her claim of continuous residence through May 4, 1988 is further eroded.

Given her failure to establish having filed a timely written claim for class membership, and the dubious nature of her claim of continuous residence, 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.