



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]

Office: National Benefits Center

Date: SEP 07 2004

IN RE: Applicant: [REDACTED]

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

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prevent clearly unwarranted
invasion of personal privacy

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DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, National Benefits Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the applicant had not established he had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000.

On appeal, the applicant asserts that he has already submitted documentation addressing the requirement of applying for class membership. He requests that this documentation be reviewed again and that further consideration be given to his case.

An applicant for permanent resident status under section 1104 of 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 one 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 section 1104(b) of the LIFE Act and 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.

The applicant asserted in his LIFE application (Form I-485) that he was eligible for legalization based on *CSS v. Meese*. As evidence thereof he submitted a photocopied Form I-687, Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act), signed by the applicant and dated May 22, 1986. This document is listed in 8 C.F.R. § 245a.14 as an example of evidence which may be furnished in an effort to establish that an alien applied for class membership prior to October 1, 2000. The applicant has not demonstrated, however, that he ever submitted the original of that document to the Immigration and Naturalization Service (now Citizenship and Immigration Services, or CIS) before the instant application was filed on February 12, 2003. CIS has no record of receiving the document before then.

Moreover, the date written next to the applicant's signature raises a fundamental question about the document's authenticity. The Form I-687, which served as the application for legalization under the Immigration Reform and Control Act of 1986 ("IRCA"), was signed by the applicant and allegedly dated May 22, 1986. The filing period for applications under IRCA did not commence until May 5, 1987, however, and the form signed by the applicant was not even published until June 15, 1987. In addition, the applicant asserted on the form that he was employed at Gusman Strawberries until 1987 and that his fourth son was born on March 18, 1987. Both of those dates fall after the purported date of the applicant's signature in May 1986. Thus, it is clear that the Form I-687 was not filled out and dated by the applicant in May 1986, as alleged.

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. Attempts to explain or reconcile such inconsistencies will not suffice without competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I & N Dec. 582, 591-92 (BIA 1988).

In response to the director's Notice of Intent to Deny, the applicant submitted a photocopy of a letter he allegedly wrote to the Attorney General, dated September 18, 2000, in which he purportedly sought to be registered as a class member in *CSS* and *LULAC*. The applicant's brief letter, however, does not even

begin to demonstrate that he could qualify for *CSS* or *LULAC* 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.

The photocopy of the letter to the Attorney General does not establish that the original was actually received by the office of the Attorney General, or by the Immigration and Naturalization Service (INS), in September 2000. The applicant has not provided any evidence, such as a postal receipt or an acknowledgement letter, showing that he actually sent the subject letter to the Attorney General in September 2000, as alleged. In fact, there is no record that the subject letter was ever received prior to June 30, 2003, the date it was received by the Missouri Service Center, Citizenship and Immigration Services (successor to the Immigration and Naturalization Service), in response to the director's Notice of Intent to Deny the instant application. That was long after the statutory deadline of October 1, 2000 to file a written claim for class membership.

It must be noted that the applicant is one of many aliens who furnished such identically-worded and identically-formatted letters (virtually all bearing dates in September 2000) only after receiving Notices of Intent to Deny, rather than simultaneously with their LIFE applications. *None* of these aliens has provided any evidence, such as postal receipts or acknowledgement letters, demonstrating that the letters were actually sent to the Attorney General. Given the importance of the letters, it is reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail. Furthermore, the statements on appeal submitted by these aliens, none of whom asserts to be represented by counsel, are identical. All of these factors raise grave questions about the authenticity of the letter that the applicant purportedly sent to the Attorney General.

The applicant furnishes no further evidence on appeal, but claims on his appeal form that the documentation previously submitted demonstrates that he submitted a "request for classification." The applicant complains that he has not been given any specifics as to why his application was denied. Contrary to the applicant's contention, the Notice of Decision explained that the application was being denied because none of the documentation submitted by the applicant or on record at Citizenship and Immigration Services established that a timely claim for class membership had been filed - *i.e.*, prior to October 1, 2000 - in one of the requisite legalization lawsuits.

The evidence of record, therefore, does not establish that the applicant filed a written claim for class membership in *CSS* or one of the other legalization lawsuits, *LULAC* or *Zambrano*, before October 1, 2000, as required under section 1104(b) of the LIFE Act.

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.