



U.S. Citizenship
and Immigration
Services

12

[REDACTED]

FILE:

[REDACTED]

Office: National Benefits Center

Date:

SEP 01 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:

[REDACTED]

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

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 counsel asserts that there is "ample evidence" in the file that the applicant filed a timely claim for class membership, and specifically cites two interview notices from the Immigration and Naturalization Service (INS) scheduling interviews for the applicant on April 30, 1992 and March 15, 1994.

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.

When he filed his LIFE application (Form I-485) in April 2003 the applicant submitted photocopies of the following pertinent documentation:

- 1) an Application for Status as a Temporary Resident under Section 245A of the Immigration and Naturalization Act (Form I-687), signed by the applicant and dated October 26, 1991;
- 2) a Form for Determination of Class Membership in CSS, signed by the applicant and dated October 26, 1991;
- 3) a notice from the INS Vermont Service Center, dated November 18, 1991, purportedly verifying that the applicant's I-687 application and fee had been received;
- 4) a couple of interview notices from a Legalization Office in New York City purportedly scheduling interviews for the applicant on April 30, 1992 and March 15, 1994 "to determine subclass membership" and
- 5) an undated notice from the INS Vermont Service Center purportedly advising the applicant that "your scheduled interview to determine eligibility for class membership in CSS/LULAC is cancelled, and will be rescheduled at an earlier date."

The AAO notes that none of the documents purportedly issued by the INS (now Citizenship and Immigration Services, or CIS) – items (3), (5), and (6) above – includes an Alien Registration Number (A-number) for the applicant. The lack of an A-number is particularly glaring with respect to the November 18, 1991 notice from the Vermont Service Center, since the INS would have assigned an A-number (as well as a receipt number) if it had actually received an I-687 form from the applicant in 1991, as alleged. In fact, however, Citizenship and Immigration Services (CIS), successor to the INS, has no record of receiving any I-687 application, or any Form for Determination of Class Membership in CSS, from the applicant in 1991.

Neither of those forms appeared in the record until the instant LIFE application was filed in April 2003. CIS has no record of issuing the 1991 notice acknowledging receipt of the I-687 form or any of the notices relating to the alleged interviews in 1992 and 1994.

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. See *Matter of Ho*, 19 I & N Dec. 582, 591-92 (BIA 1988).

The applicant has submitted no further evidence on appeal – such as a postal receipt or an acknowledgement letter – that he actually submitted a Form for Determination of Class Membership in CSS to the INS in 1991, as alleged. Nor has he submitted a postal receipt or other evidence that he submitted an I-687 form in 1991, aside from the INS notice of dubious validity. The AAO notes, with respect to the purported INS notices submitted in this proceeding, that the applicant is one of many aliens residing in New York City who have furnished such questionable photocopied documents in support of their LIFE applications.

The AAO concludes that the documentation of record does not constitute credible evidence that the applicant filed a claim for class membership in CSS, or either of the other legalization lawsuits, prior to 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.