

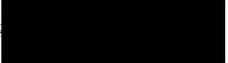


U.S. Citizenship
and Immigration
Services

L3



FILE:



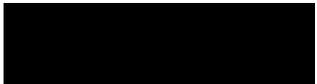
Office: NATIONAL BENEFITS CENTER

Date:

SEP 02 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 office that originally decided your case. 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, and is now before the Administrative Appeals Office (AAO) 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 reiterates his contention that he filed a written claim for class membership at the Arlington, Texas office of the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS). In addition, the director also determined that the applicant had made a false claim to United States citizenship and, therefore, was ineligible to adjust to permanent residence pursuant to 8 C.F.R. § 245a.18, because he was found inadmissible under section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (INA).

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.

On his LIFE Act application, the applicant indicated that he filed a claim for *CSS/LULAC* class membership on May 3, 1991. However, the applicant failed to include any documentation that would corroborate his assertion that he filed a written claim for class membership.

In his subsequent response to the notice of intent to deny, the applicant provided photocopies of the following documents:

- a form dated June 21, 1991, that is signed by Service officer, Yolanda Rangel, indicating that the applicant is a member of the *CSS* or *LULAC* subclass and that employment authorization is to be granted. The letter bears the applicant's name and the type-written notation "CSS VS. MEESE," and;
- a letter from the Service's Northern Service Center dated January 13, 1993, which purportedly confirmed that the applicant had filed for class membership in *CSS* and that no final decision had at yet been reached in his case. The letter bears the applicant's name, address and the type-written notation "CSS VS. MEESE."

The photocopied Service documents such as that the applicant provides may be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. § 245a.14(d). However, the Service documents contain typewritten notations including but not limited to the applicant's name, address, date, and "CSS VS. MEESE." These typewritten notations are the same size and style of font throughout all of the documents, but do not conform to any of the sizes and styles of printing utilized in each of these respective documents.

In addition, the applicant offered no explanation as to *why*, if he truly had these documents referencing his purported claim to class membership in his possession beginning in 1991, he did not submit such documents with

his 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. A review of relevant records reveals no evidence that the applicant had a pre-existing file prior to filing of his LIFE Act application on May 12, 2003, in spite of the fact that he claims to have been issued Service documents relating to class membership beginning in 1991. These factors raise serious questions regarding the authenticity and credibility of the supporting documentation, as well as the applicant's claim that he filed for class membership. Given these circumstances, it is concluded that photocopied Service documents provided by the applicant in support of his claim to class membership are of questionable probative value.

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 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.

An applicant for permanent resident status under the provisions of LIFE Act must establish that he is admissible to the United States as an immigrant, except as otherwise provided under section 245A(d)(2) of the INA. Section 1140(c)(2)(D)(i) of the LIFE ACT.

The record shows that the applicant was arrested by the Service on August 31, 1999, when he attempted to enter the United States by making a false claim to United States citizenship. The record contains a Form I-860, Determination of Inadmissibility, dated August 31, 1999, which reflects that the applicant was found inadmissible pursuant to section 212 (a)(6)(C)(ii) of the INA, as a result of him making a false claim to United States citizenship.

An alien applying for adjustment of status under the provisions of section 1140 of the LIFE Act has the burden of proving by a preponderance of evidence that he or she has continuously resided in an unlawful status in the United States from January 1, 1982 to May 4, 1988, is admissible to the United States under the provisions of section 212(a) of the INA, and is otherwise eligible for adjustment of status. 8 C.F.R. § 245a.11. The applicant has failed to meet this burden and, therefore, is ineligible for permanent resident status under section 1104 of the LIFE Act on this basis as well.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.