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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: NATIONAL BENEFITS CENTER

Date: SEP 23 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

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 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 submits a statement in which she reiterates her claim that she filed a written claim for class membership with the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) prior to October 1, 2000. The applicant provides copies of previously submitted documents, as well as a new document to support her claim.

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 her LIFE Act application, the applicant indicated that she filed a claim for *CSS/LULAC* class membership by applying for temporary residence March 25, 1989. The applicant also included a separate declaration in which she stated that she had visited "...an Agency..." in Philadelphia, Pennsylvania in March 1989. The applicant declared that she was advised to submit a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (INA), and corresponding fee to the Service. The applicant claimed that shortly thereafter, she mailed the Form I-687 legalization application and a money order to the Service's Vermont Service Center. The applicant asserted that she received a letter from the Service two weeks later acknowledging receipt of her Form I-687 legalization application, but that she never heard anything further from the Service regarding the Form I-687 legalization application. The applicant provided photocopies of the following documents with her LIFE Act application:

- a Form I-687 legalization application that is signed by the applicant and dated March 25, 1989, and;
- a Legalization Front-Deskling Questionnaire that is signed by the applicant and dated July 13, 2000.

These documents are listed in 8 C.F.R. § 245a.14 as examples of documents that may be furnished in an effort to establish that an alien had previously applied for class membership. Although all of the documents provided by the applicant are dated well before October 1, 2000, the record contains no evidence that any of these documents were submitted to the Service or its successor CIS prior to the filing of her LIFE Act application on December 9, 2002. While the applicant claimed that she included a money order with the Form I-687 legalization application she has failed to specify the amount of this money order. Furthermore, the applicant has failed to provide any independent evidence such as a money order receipt or postal receipts to corroborate her claim. Moreover, the applicant did not include a copy of the letter she purportedly received from the Service acknowledging receipt of her Form I-687 legalization application.

In her subsequent response to the notice of intent to deny, copies of the two documents cited above, as well as a photocopy of an "Affidavit for Determination of Class Membership in League of United Latin American Citizens V. INS (LULAC). The *LULAC* determination form is signed by the applicant and dated January 7, 1990. Within the *LULAC* determination form, the applicant indicated that she first entered the United States without a visa by crossing the border without inspection at Brownsville, Texas on October 14, 1981. The applicant further indicated that she departed this country on July 12, 1986, and then returned again without a visa by crossing the border without inspection at Brownsville, Texas on August 19, 1986.

On appeal, the applicant provides copies of the Form I-687 legalization application, the legalization questionnaire, and the *LULAC* determination form, as well as a photocopy of the following document:

- an undated appointment notice from the Service's Legalization Office in Paterson, New Jersey, bearing the applicant's name, address, and date of birth, which scheduled her for an interview at 11:15 A.M. on March 28, 1990, regarding the late filing of a legalization application under the *LULAC* case.

The photocopied Service documents such as that the applicant provides both in response to the notice of intent to deny and on appeal, 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 applicant offered no explanation as to *why*, if she truly had either the *LULAC* determination form or the Service appointment notice since at least January 1990, she did not submit such documents with her 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 her LIFE Act application on December 9, 2002, in spite of the fact that she claims to have been issued Service documents relating to class membership beginning in 1989. These factors raise serious questions regarding the authenticity and credibility of the supporting documentation, as well as the applicant's claim that she filed for class membership. Given these circumstances, it is concluded that photocopied Service documents provided by the applicant in support of her claim to class membership are of questionable probative value.

As has been previously discussed, the applicant acknowledged that she reentered the United States without a visa by crossing the border without inspection at Brownsville, Texas on August 19, 1986 on the *LULAC* determination form. As the *LULAC* lawsuit related to those that reentered this country with visas, the applicant would no reason to have applied for membership in the *LULAC* lawsuit. The applicant provides no explanation as to why she would have sought membership in this legalization class-action lawsuit as it does not relate to aliens who claim, just as she has claimed, to have reentered the United States without a visa after returning from an absence outside this country.

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.

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