



U.S. Citizenship  
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FILE: [REDACTED]  
MSC 01 328 60563

Office: NATIONAL BENEFITS CENTER

Date: **AUG 16 2006**

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. All documents have 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, Chief  
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. The director certified the matter to the Administrative Appeals Office (AAO) for review. The decision will be affirmed.

The director concluded that the applicant had not established that he filed a written claim for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000. Therefore, the director denied the application.

The applicant did not file a brief or other evidence with the AAO during the 33 days following the date of the director's September 7, 2005 denial.

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)(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 8 C.F.R. § 245a.10.

The regulations at 8 C.F.R. § 245a.14 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. Most notably, the regulations at 8 C.F.R. § 245a.14(b) indicate that such forms of evidence include Service documents addressed to the alien, or his or her representative, which grant or deny class membership and that include the date as well as the alien's name and A-number. Those regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14(g). Where the submitted document is not in strict compliance with the regulations in that it does not include an A-number, such evidence will be evaluated as a "relevant document" under 8 C.F.R. § 245a.14(g). See *Matter of E-M-*, 20 I&N Dec. 77, 81 (Comm. 1989)(where the Commissioner determined that when an applicant for original legalization submits a supporting document which is not in full compliance with the regulation specific to that document, the document should be considered as a "relevant document" under 8 C.F.R. § 245a.2(d)(3)(iv)(L).)

The record includes the following documents which potentially relate to a timely, written request for class membership:

1. The Form for Determination of Class Membership in *CSS v. Thornburgh* which is neither dated nor signed.
2. The Form I-687, Application for Status as a Temporary Resident, which is not dated.

It is noted that included in the record of proceedings is a copy of the State of California Certified Abstract of Birth for the applicant's daughter, [REDACTED] which verifies that [REDACTED] was born on June 27, 1995 in Los Angeles County, California.

On August 24, 2001, the applicant submitted this Form I-485, Application to Register Permanent Resident or Adjust Status, under the LIFE Act.

On October 29, 2001, the director issued a notice of intent to deny (NOID) in which he stated that the applicant had failed to establish that he had submitted a timely, written application for class membership in one of the requisite legalization class-action lawsuits. In the NOID, the director did not evaluate any of the evidence which the applicant provided relating to a timely, written application for class membership.

In response to the NOID, the applicant submitted a copy of the Form for Determination of Class Membership in *CSS v. Thornburgh* which is not dated. He also resubmitted a copy of the Form I-687 that he filed with the Form I-485. He did not provide further comment.

On September 3, 2002, the director denied the application for the reasons set out in the NOID. In the denial, the director again did not specify what he found lacking in the applicant's evidence.

On appeal from the September 3, 2002 decision, the applicant resubmitted the Form I-687 which is not dated and the Form for Determination of Class Membership in *CSS v. Thornburgh* which is neither signed nor dated. He also provided a statement which indicated that he applied for legalization class membership during August 1994 by filing the Form I-687 as well as the Form for Determination of Class Membership in *CSS v. Thornburgh*, but that the Service never scheduled a class membership interview for him.

The September 3, 2002 notice of decision was withdrawn. The AAO remanded the matter to the Director, National Benefits Center, instructing that office to provide the applicant a notice of decision which identified any deficiencies in the evidence and which documented the director's efforts to check Service records for evidence that the applicant applied for class membership such that the applicant might be able to provide a meaningful appeal. *See* 8 C.F.R. § 245a.20(a)(2).

On September 7, 2005, the director denied the application and certified his decision to the AAO. In the decision, he identified deficiencies in the applicant's evidence and specified that all Service records and indices indicated that, prior to October 1, 2000, the applicant had not filed any documents with the Service that pertained to the original legalization program or to LIFE legalization.

In his decision, the director also indicated that the Form I-687 would not be considered probative evidence because the form does not include an A-number as required at 8 C.F.R. § 245a.14(b). The regulations at 8 C.F.R. § 245a.14(b) refer to Service documents addressed to the applicant which grant or deny class membership, not to applications such as the Form I-687. Thus, this point in the director's decision is withdrawn.

The Form I-687 may be furnished in an effort to establish that an alien filed a timely, written claim for class membership. However, it is only the Form I-687 filed in conjunction with the class membership application which supports such a claim. *See* 8 C.F.R. § 245a.14(d)(6). The applicant has provided no credible evidence to establish that he filed the Form I-687 with the Service in conjunction with a timely application for class membership in one of the requisite legalization class-action lawsuits or even that it was filed with the Service at all.

As indicated by the director in the September 7, 2005 decision, the authenticity of the Form I-687 and the credibility of the applicant's claim of having filed it in August 1994 are called into question because the applicant listed the June 1995 birth of his daughter, [REDACTED], on the form. The

copy of the State of California Certified Abstract of Birth which the applicant attached to the Form I-485 also confirms that the applicant's daughter, [REDACTED] was born in Los Angeles County on June 27, 1995.

The authenticity of the form and the credibility of the applicant's claim that he filed the Form I-687 in August 1994 are called further into question in that the form is not dated. Also, the applicant did not indicate that he filed the form with the Service during August 1994 when he submitted the form with the Form I-485, nor when he resubmitted it in response to the NOID. It was not until the statement made on appeal that the applicant made this claim. Also, the applicant offered no explanation as to why he did not assert sooner that he had filed this form with the Service together with the Form for Determination of Class Membership during August 1994 in conjunction with a legalization class membership application.

Thus, the Form I-687 is not a credible document and the applicant's assertion that he filed the form with the Service during August 1994 is not credible. In turn, this form does not provide probative evidence regarding the applicant's claim that he filed a timely, written application for class membership.

The authenticity of the Form for Determination of Class Membership in *CSS v. Thornburgh* and the applicant's claim that he filed the form with the Service during August 1994 are called into question in that the applicant did not submit the form with the Form I-485, but instead submitted it only after the director issued the NOID. Also, the applicant offered no explanation as to why he did not assert that he filed this unsigned, undated form together with the Form I-687 during August 1994 in conjunction with a legalization class membership application, until the statement made on appeal. Finally, the authenticity of the Form for Determination of Class Membership and the credibility of the applicant's statement that he filed the form together with the Form I-687 during August 1994 are called further into question in that the Form I-687 lists the 1995 birth of the applicant's daughter, [REDACTED]

Thus, the Form for Determination of Class Membership in *CSS v. Thornburgh* and the applicant's claim that he submitted the form to the Service during August 1994 are not credible. In turn, the form does not provide probative evidence regarding the applicant's claim that he filed a timely, written application for legalization class membership.

The applicant has failed to submit documentation which establishes that he filed a timely, written claim for class membership in one of the requisite legalization class-action lawsuits. The record reflects that all appropriate indices and files were checked and it was determined that the applicant had **not** applied for class membership in a timely manner. Given his failure to document that he filed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

**ORDER:** The director's decision dated September 7, 2005 is affirmed. The application is denied.