

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

L2

FILE: [REDACTED]  
MSC 01 345 61864

Office: NATIONAL BENEFITS CENTER

Date: OCT 11 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was initially denied by the Director, National Benefits Center, and appealed to the Administrative Appeals Office (AAO). The AAO withdrew the director's decision and remanded the matter to the director for further action. The director again denied the application and certified his decision to the AAO for review. The director's certified decision will be affirmed.

In his certified decision, 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 1, 2005 certified 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. 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. A document which purports to be a "LULAC / CSS " appointment notice issued by the U. S. Immigration and Naturalization Service (INS) on Nov. 9, 1993<sup>1</sup> which requests that the applicant appear for an interview on November 22, 1993.
2. A Legalization Questionnaire signed by the applicant and dated March 19, 2000.
3. A Legalization Questionnaire signed by the applicant and dated June 23, 2000.

---

<sup>1</sup> On page 3 of his certified decision, the director erred and indicated that this appointment notice was dated November 19, 1993.

4. The Form I-687, Application for Status as a Temporary Resident, signed by the applicant and dated October 30, 1993.
5. The Form I-687 signed by the applicant and dated September 30, 2001.
6. A letter dated October 25, 2001 submitted in response to the NOID which indicates that individuals such as the applicant who did not submit a claim for class membership prior to October 1, 2000, but who did do so prior to February 2, 2001, should qualify as having submitted a timely, written request for class membership.
7. An affidavit signed by the applicant that is not dated regarding the applicant's CSS/LULAC class membership application.

On September 10, 2001, the applicant filed this Form I-485, Application to Register Permanent Resident or Adjust Status, under the LIFE Act.

On October 22, 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 that potentially relates to a timely, written application for class membership.

On November 5, 2001, the Service received a rebuttal to the NOID which indicated that February 2, 2001, not October 1, 2000, was the deadline for filing a written application for legalization class membership. The rebuttal also included documents in support of the claim that the applicant filed a written application for class membership prior to October 1, 2000.

On August 29, 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 August 29, 2002 decision, the assertion was made that the applicant had submitted a timely, written application for legalization class membership. A copy of a Legalization Questionnaire dated March 19, 2000 was also submitted on appeal.

The August 29, 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 1, 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.

The director also stated in the September 1, 2005 decision that the authenticity of the applicant's evidence was called into question based on its similarity to questionable evidence provided by several other LIFE legalization applicants who either currently reside or formerly resided in the Chicago area. This point in the director's decision is withdrawn. Each application is a separate proceeding with a separate record. *See* 8 C.F.R. § 103.8(d). In making a determination of statutory eligibility, the Service is limited to the information contained in the record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii). The record of proceeding in this instance consists of the material in the applicant's A-file. *See* 8 C.F.R. § 103.8(d). Further, if the decision will be adverse to the applicant and is based on derogatory information considered by the Service of which the applicant is unaware, he shall be advised of this and offered an opportunity to rebut the information and present evidence in his own behalf before the decision is rendered. *See* 8 C.F.R. § 103.2(b)(16)(i). The applicant's A-file does not contain specific information or evidence relating to other questionable or fraudulent applications from aliens in the Chicago area, nor does it include evidence that the applicant was ever provided notice of any such derogatory information.

The letter dated October 25, 2001 which suggests that individuals, such as the applicant, who did not submit a claim for class membership prior to October 1, 2000, but who did do so prior to February 2, 2001 should qualify as having submitted a timely request for class membership amounts to an admission that the applicant did not submit a timely, written application for class membership. Thus, this letter does not constitute probative evidence that the applicant submitted a timely, written request for class membership.

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 the Form I-687 dated October 30, 1993 was filed with the Service in conjunction with an application for class membership in one of the requisite legalization class-action lawsuits or even that it was filed with the Service at all.

On the Legalization Questionnaire dated March 19, 2000, the applicant indicated that each time that he presented a completed Form I-687 to the Service, the Service refused to accept the application. He specified that, during 1993, he learned of the CSS class action lawsuit. He indicated that in response he attempted to submit an application for legalization class membership at the Chicago District Office at [REDACTED]. However, the Service representative told him that CSS was cancelled and refused to accept any documents from him.

Contrary to this, on the Legalization Questionnaire dated June 23, 2000, the applicant indicated that the Service did not turn him away during 1993. Rather, the Service requested that he appear for a November 22, 1993 CSS/LULAC interview at [REDACTED]. He indicated further that at this interview, the Service was not able to locate the Form I-687 which he had filed with the INS at

an earlier, unspecified date at its office located at ██████████ Forest Park, Illinois. Therefore, the Service representative informed him that his interview would be held at a later date. The applicant indicated that he returned to the Chicago District Office during December 1995 to inquire about the rescheduling of his CSS/LULAC interview and it was then that the Service representative informed him that CSS was cancelled.

On the applicant's undated affidavit regarding his application for CSS/LULAC class membership, he indicated that he only attempted to file for legalization one time. This attempt was made at the INS office located at ██████████ Chicago and at that time, the Service refused to accept his application. The applicant did not make reference to any second attempt to file the Form I-687 at the Service office located at ██████████ Forest Park, Illinois on this undated affidavit, contrary to statements made on the Legalization Questionnaire dated June 23, 2000.

These inconsistencies call into question the credibility of the applicant's claim that he submitted the Form I-687 at the INS office located at ██████████ Forest Park, Illinois on an unspecified date prior to November 22, 1993.

As the record provides no credible evidence that the Form I-687 dated October 30, 1993 was ever submitted to the Service prior to October 1, 2000, this Form I-687 does not constitute probative evidence that the applicant submitted a timely, written request for class membership.

The applicant has provided no credible evidence to establish, nor has he even asserted, that he filed with the Service, prior to October 1, 2000, the Legalization Questionnaires dated March 19, 2000 and June 23, 2000 in conjunction with a written application for legalization class membership.

The applicant did assert on appeal that he filed a Legalization Questionnaire with the INS Office in Washington, D.C. and that he also filed a Legalization Questionnaire with the Vermont Service Center. Yet, he made no claim that he filed either questionnaire prior to October 1, 2000 and that he filed either in conjunction with an application for class membership. The letter submitted in response to the NOID dated October 25, 2001 specifically acknowledges that the applicant did not submit a written application for class membership prior to October 1, 2000. Further, Service records and indices do not support the applicant's claim that he filed Legalization Questionnaires with the Service. The record indicates that the applicant did *attempt* to file a copy of the Legalization Questionnaire with the Vermont Service Center after February 2001 and that he did so in an effort to be evaluated for eligibility to submit a late filing of the Form I-687, rather than in conjunction with an application for class membership. Yet, during April 2002, the Vermont Service Center informed him that it could not accept that questionnaire because it was received after the February 2001 deadline for submitting requests to be evaluated for eligibility to file the Form I-687.

Further, the contradictory responses which the applicant provided on the Legalization Questionnaire dated March 19, 2000 as compared to the responses which he provided on the Legalization Questionnaire dated June 23, 2000 and as compared to the applicant's undated affidavit regarding CSS/LULAC class membership call into question: the authenticity of all three forms; the authenticity of the November 22, 1993 CSS/LULAC appointment notice; and the credibility of the

applicant's claim that he presented himself for a November 22, 1993 CSS/LULAC class membership interview.

Therefore, the Legalization Questionnaires dated March 19, 2000 and June 23, 2000, the applicant's undated affidavit regarding CSS/LULAC class membership, and the November 22, 1993 CSS/LULAC appointment notice addressed to the applicant do not constitute probative evidence that the applicant submitted a timely, written request for legalization class membership.

The Form I-687 dated September 30, 2001 states on its face that it was not completed until after October 1, 2000. Thus, this form does not constitute probative evidence that the applicant submitted a timely, written request for class membership.

It is noted that the record indicates that the applicant attempted to file the Form I-687 with the Chicago receipting office of the National Benefits Center, formerly the Missouri Service Center, during September 2001. The applicant also attempted to file the Form I-687 with the Texas Service Center during November 2001. The record also indicates that these forms were not filed in conjunction with an application for legalization class membership. These attempted filings, subsequent to October 1, 2000, do not constitute probative evidence that the applicant submitted a timely, written request for 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.

It is noted that on November 17, 2005, the applicant also filed the Form I-687 under the CSS/Newman (LULAC) Settlement Agreements. That application has not yet been adjudicated.

**ORDER:** The director's certified decision dated September 1, 2005 is affirmed. The Form I-485, Application to Register Permanent Resident or Adjust Status, under the LIFE Act is denied.

---