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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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WZ

FILE:



MSC 02 108 61344

Office: NATIONAL BENEFITS CENTER

MAY 11 2007
Date:

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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

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, and remanded by the Administrative Appeals Office (AAO). The director certified the matter to AAO for review. The decision will be affirmed.

In his initial decision, 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 from the initial decision, the applicant asserted that he had submitted a legalization questionnaire to the Washington, D.C. office of the legacy Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), but that he never received a response. The applicant submitted documentation in support of the appeal.

In the subsequent certified decision, the director concluded that the evidence provided by the applicant failed to establish that he filed an actual written claim for class membership in a timely manner.

The applicant had neither addressed the certified decision nor provided any evidence to overcome the director's findings.

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 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.

Along with his LIFE application, the applicant submitted evidence to establish his identity and continuous residence in the United States since 1980; a copy of a Form I-687 application dated August 20, 1987; an undated document titled Affidavit which described the applicant's purported attempts to have applied for legalization during the actual filing period of May 5, 1987 to May 4, 1988; a *CSS v. Reno* information sheet; a legalization questionnaire instructions sheet; and a Legalization Questionnaire dated June 17, 2000.

On June 2, 2002, CIS received copies of documents previously submitted along with three certified mail receipts, PS Form, from the United States Postal Service postmarked on January 12, 2002 and February 11, 2002; a Form I-797C, Notice Action dated January 16, 2002, regarding the receipt of his Form I-485 application; a Form I-797C, Notice of Action dated January 16, 2002, regarding the receipt of his Form I-765; and a letter dated January 26, 2002 issued by the Center Director Vermont Service Center, which advised the applicant of the necessary documents in order to locate his application.

On June 10, 2002, the director issued a Notice of Intent to Deny, which advised the applicant that he had failed to establish that he had filed timely written claim for class membership. The applicant was provided the opportunity to submit documentation if any, of evidence establishing that he had applied for class membership prior to October 1, 2000.

In response, the applicant submitted copies of documents that were either previously issued by the legacy INS or submitted by the applicant, namely: 1) the Notice of Intent to Deny; 2) the Form I-485 application; 3) the Form I-765, Application for Employment Authorization; 4) the Notice of Decision dated June 10, 2002, which denied the Form I-765; and 5) the legacy INS document that gave examples of written documentation for claim for class membership.

It is noted that the Notice of Decision contained a hand-written statement indicating: "Evidence attached [sic] that [the applicant] apply for everything. Attached [sic] the form claim, questionnaire-legalization address: Washington D.C. why? Denied employment authorization why?"

The legacy INS document also contained a hand-written statement indicating: "The applicant file everything INS require but Washington, D.C. not answer [sic] to [sic] many people now St. Albans VT they not [sic] know what to do. Because[sic] the forms I have to file for claim questionnaire legalization[sic] the address is Washington, D.C. and the Director was Louis Grocetti Jr."

On September 9, 2002, the director determined that the evidence submitted did not establish that the applicant had applied for class membership and denied the application.

On appeal, the applicant submitted copies of a Form I-797C, Notice of Action dated September 2, 1999 issued by the Nebraska Service Center regarding the receipt of his Form I-765, and documents previously issued by CIS and/or submitted by the applicant.

On April 30, 2003, the AAO remanded the case for further action as the decision failed to identify any deficiencies in the evidence furnished in response to the Notice of Intent to Deny and failed to address the rebuttal statement.

On July 24, 2006, the director denied the application and certified his decision to the AAO. In the decision, the director identified the deficiencies in the applicant's documentation submitted throughout the application process. The director noted that the hand-written statements and documents submitted in response to the Notice of Intent to Deny did not provide the prima facie evidence requirement to establish that a timely written claim for class membership had been filed. As further noted by the director:

- The notices of action for the Form I-485 and Form I-765 dated January 16, 2002 only served to establish that said applications had been filed under the LIFE Act.
- The notice from the Vermont Service Center dated January 26, 2002 was irrelevant as it did not mention any of the legalization class action lawsuits.
- CIS has no record of receiving the legalization questionnaire.
- The remaining documentation may only serve to establish the applicant's identity and continuous residence in the United States during the period in question.
- The notice of action dated September 2, 1999 related to an alleged pending Form I-485 application.
- All CIS electronic records and indices had been checked and there was no indication of the applicant filing a written claim for class membership prior to October 1, 2000.
- The certified postal receipts failed to list the complete address to whom the correspondence was mail and, therefore, it cannot be determined if the correspondence were sent to a CIS office.

In addition, all of the postal receipts are dated in 2002, a year that is contemporaneous to the applicant's filing of his LIFE Act application on January 16, 2002, and well after the statutory deadline of October 1,

2000, for the filing of written claims for class membership in a legalization class-action action under section 1104 of the LIFE Act.

The applicant indicated that he attempted to file a Form I-687 application under section 245A of the Immigration and Nationality Act on August 21, 1987, but was told that he was not eligible due to his departure to Mexico. However, it is clearly evident that the Form I-687 application dated August 21, 1987, was prepared well after this date as the applicant indicated, at item 35, his only departure was to Mexico from September 10, 1987 to September 30, 1987. 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, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I& N Dec. 582 (BIA 1988). As such, the applicant's claim is questionable at best.

Assuming, arguendo the applicant was front-desked (informed that he was not eligible for temporary residence) when he attempted to file a legalization application in the original application period from May 5, 1987 to May 4, 1988, this action alone does not equate to having filed a written claim for class membership in any of the requisite legalization class-action lawsuits.

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 she failed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act. Therefore, the decision recommending denial of the LIFE Act application shall be affirmed.

Finally, it is noted that the FBI report dated April 25, 2002, reflects that on: 1) April 10, 1997, was arrested by the Chicago Police Department in Illinois for battery/domestic; 2) September 13, 1998, the applicant was arrested by the Bensenville Police Department in Illinois for unlawful use of a license permit; and 3) June 17, 2001, the applicant was arrested by the Maywood Police Department in Illinois for revoked/suspended license for 2nd driving under the influence and illegal lane usage.

The applicant submitted a letter dated November 8, 2001, from the Chicago Police Department, which indicated that a search of its name-based records disclosed no conviction, sentence or imprisonment under the name [REDACTED]. However, this letter has little probative value as it was conducted under a different name. The FBI report, via a fingerprint analysis, revealed that the applicant was arrested under the aliases [REDACTED], [REDACTED] and [REDACTED].

ORDER: The certified decision recommending the denial of the application for permanent resident status is affirmed.