

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

[REDACTED]

L2

FILE: [REDACTED]
MSC 03 199 60117

Office: NATIONAL BENEFITS CENTER

Date: APR 02 2008

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits [or Records] Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained.

The director concluded that the applicant failed to establish that he had applied for class membership in one of the requisite legalization class action lawsuits prior to October 1, 2000, as required under section 1104(b) of the LIFE Act.

On appeal, counsel asserts that the applicant did file an application for class membership in December 1995, which the INS (Immigration and Naturalization Service) kept on file pending further instruction. Since the deadline for filing a class membership application was subsequently extended to October 1, 2000, counsel contends, the class membership application at issue in this case should be deemed timely filed.

An applicant for permanent resident status under section 1104 of 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 one 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 section 1104(b) of the LIFE Act and 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. See 8 C.F.R. § 245a.14.

When the applicant filed his current LIFE application on April 17, 2003, the record included the following documentary evidence that he had filed an application for class membership in CSS, each of which conforms with one of the illustrative list of documents in 8 C.F.R. § 245a.14.

- A Form for Determination of Class Membership in CSS v. Meese [“CSS class membership form”], with a date stamp on page one of June 25, 1996.

A Form I-687, Application for Status as a Temporary Resident (Under section 245A of the Immigration and Nationality Act), signed by the applicant, with a date stamp on page one of July 18, 1996.

A form letter to the applicant from the Houston District Office of INS, with a date stamp of September 10, 1996, stating that pursuant to a court order dated November 3, 1995, the INS was no longer accepting applications for class membership as of December 3, 1995. Since the deadline had already passed, the letter advised the applicant that his application must be denied as untimely filed, and that it would be held in the district office pending further instruction.

In his decision denying the application in 2003, the Director of the National Benefits Center declared that there was no evidence the Form I-687 was ever presented to the Houston District Office, and the mere filing of such a form does not, by itself, establish prima facie eligibility for LIFE legalization. The Form I-687 was not a solitary document, however, because the record shows that it was presented to the Houston District Office along with the CSS class membership form in an envelope addressed by the applicant to that office and postmarked May 31, 1996. The date stamps on the CSS class membership form (June 25, 1996) and the Form I-687 (July 18, 1996) are further evidence that the documents were received by the Houston District Office.

The director's conclusion that the applicant was not a class member in one of the class action lawsuits, based on the letter from the Houston District Office in September 1996 stating that his application was untimely filed, was faulty reasoning in the context of the current LIFE legalization proceeding. The deadline cited by the Houston District Office – December 3, 1995, after which INS offices were authorized to cease accepting class membership applications – was set by a federal district court in California long before the enactment of the LIFE Act. The legal effect of the federal court order of 1995 was superseded by the LIFE Act, enacted in December 2000, which set a deadline of October 1, 2000 for the filing of applications for class membership by aliens seeking legal permanent residence under section 1104 of the Act. What the letter from the Houston District Office on September 10, 1996 clearly shows is that the applicant filed an application for class membership in CSS long before October 1, 2000. For the purposes of the LIFE legalization program, therefore, it was timely filed.

Based on the foregoing analysis, the AAO determines that the documents discussed above constitute credible evidence that the applicant filed a timely claim for class membership in CSS, in accordance with section 1104(b) of the LIFE Act.

Accordingly, the appeal will be sustained. The director shall forward the application to the appropriate office to complete the adjudication.¹

ORDER: The appeal is sustained.

¹ On April 21, 1998, the applicant was determined to be inadmissible to the United States under sections 212(a)(6)(C)(i) and 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act, and removed to Mexico, after he was apprehended at the border attempting to enter the United States using a fraudulent document. On December 19, 2001, the applicant filed an Application for Waiver of Grounds of Inadmissibility (Form I-601), which was denied on August 9, 2002, by the Director, Missouri Service Center, on the ground that the applicant had not filed a claim for class membership in one of the legalization class action lawsuits, making him ineligible for a waiver.