

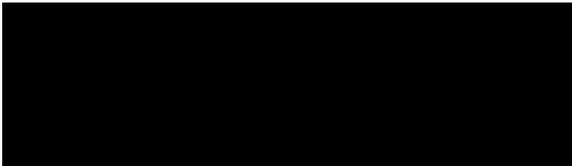
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: NATIONAL BENEFITS CENTER

Date: MAR 04 2005

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 he reiterates his claim that he 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.

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. The regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

Along with his Form I-485 LIFE application, the applicant included two statements signed by [REDACTED] and [REDACTED] respectively. Both of these individuals stated that they accompanied the applicant when he attempted to apply for temporary residence under section 245A of the Immigration and Nationality Act (INA) in 1987, but was told that he was not eligible by an employee of the Service because he had left the country. While the applicant may have been front-desked (informed that he was not eligible for temporary residence) when he attempted to file a legalization application, 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 included photocopies of the following documents with his Form I-485 LIFE Act application:

- a Form I-687, Application for Status as a Temporary Residence under Section 245A of the INA, that is signed by the applicant and dated December 20, 1987;
- a Legalization Front-Desking Questionnaire that is signed by the applicant and dated August 11, 1999, and;
- a "Form for Determination of Class Membership in *CSS v. Thornburg (Meese)*," which is signed by the applicant and dated May 15, 1993.

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 his LIFE Act application on May 7, 2003.

In response to the notice of intent to deny issued on October 8, 2003, the applicant submitted photocopies of two employment letters and a letter of membership. While such documentation provides evidence of the applicant's residence, it provides no information establishing that he filed a timely claim to class membership before October 1, 2000. The applicant also included a photocopy of an appointment notice dated September 23, 1991, from the Service's Legalization Office in New York, New York, that bears the applicant's name, address, date of birth, and country of citizenship. The appointment notice purportedly scheduled the applicant for an interview at an unspecified time on March 9, 1992, for a determination regarding class membership.

The photocopied appointment notice provided by the applicant 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 he truly had this document referencing his purported claim to class membership in his since at least September 23, 1991, he did not submit such documents with his 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.

The factors cited above raise questions regarding the authenticity and credibility of the supporting documentation, as well as the applicant's claim that he filed for class membership. Given these circumstances, it is concluded that photocopied documents provided by the applicant in support of his claim to class membership are of questionable probative value.

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 that 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.