

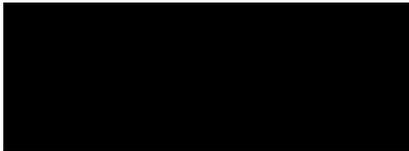
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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services



22

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 your case 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 "Robert P. Wiemann".

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 Administration Appeals Office (AAO) on appeal. The appeal will be dismissed.

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, the applicant 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. The applicant provides documents in support of the appeal.

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.

On his Form I-485 LIFE Act application, the applicant claimed that he applied for CSS/LULAC class membership with the Service on June 18, 1991. In support of this claim, the applicant submitted a Form I-687, Application for Status as Temporary Resident Under Section 245A of the Immigration and Nationality Act (INA), and a "Form for Determination of Class Membership in CSS v. Meese or LULAC," both dated June 18, 1991. However, it is clearly evident that the Form I-687 application dated June 18, 1991, was prepared well after this date as the applicant listed his addresses of residence through at least January 1998 at part #33 of the application, where applicants were asked to list all addresses of residence in the United States since their first entry.

On the determination form, the applicant declared that he attempted to file a legalization application for temporary residence under section 245A of the Immigration and Nationality Act (INA), but was told that he was not eligible by an employee of the Service. 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 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.

These documents are listed in 8 C.F.R. § 245a.14 as examples of documents which may be furnished in an effort to establish that an alien had previously applied for class membership. Although these documents are dated prior to October 1, 2000, the statutory deadline for the filing of written claims for class membership in a legalization class-action action under section 1104 of the LIFE Act, the applicant has not provided any independent evidence that would tend to corroborate his claim to have filed a timely claim for class membership in any of the legalization lawsuits. Furthermore, the record contains no evidence that any of these documents were submitted to the Service or its successor CIS prior to the filing of the LIFE Act application on March 24, 2003.

In response to the notice of intent to deny, the applicant included copies of documents cited above, as well as copies of the following new documents:

- a form dated June 18, 1991 that is signed by Service officer, Yolanda Rangel, and bears the applicant's name and the type-written notation "CSS V. [REDACTED]". This document indicates that the applicant is a member of the *CSS* or *LULAC* subclass and that employment authorization is to be granted, and;
- a letter from the Service's Northern Service Center dated January 23, 1993, which purportedly confirmed that the applicant had filed for class membership in *CSS* and that no final decision had at yet been reached in his case.

The photocopied Service documents such as that the applicant provides may be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. § 245a.14(d). However, both of the Service documents submitted by the applicant in response to the notice of intent to deny contain typewritten notations including but not limited to the applicant's name, address, type of application and date. These typewritten notations are the same size and style of font throughout all of the documents, but do not conform to any of the sizes and styles of printing utilized in each of these respective documents.

In addition, the applicant offered no explanation as to *why*, if he truly had documents referencing his purported claim to class membership in his possession since at least June 18, 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. A review of relevant records reveals no evidence that the applicant had a pre-existing file prior to filing of his LIFE Act application on March 24, 2003, in spite of the fact that he claims that he received Service documents relating to class membership beginning in June 1991. These factors raise serious 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 Service 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 record reflects all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership. The applicant has failed to submit documentation which 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.