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

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prevent clearly unwarranted
invasion of personal privacy**



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FILE:



Office: National Benefits Center

Date: **APR 11 2006**

IN RE:

Applicant:



PETITION: 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.

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 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 argues that he is eligible because he filed for class membership with the Attorney General 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. Those regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

The applicant has submitted Form I-485, LIFE Act application on two occasions, on April 8, 2002 and June 6, 2003, respectively. On January 31, 2003, the applicant's first I-485 LIFE Act application was denied for failure to submit evidence that he filed a written claim to class membership on or before October 1, 2000. On July 29, 2004, the applicant's second Form I-485 LIFE Act application was denied again for failure to establish his claim that he had filed a written claim to class membership on or before October 1, 2000.

The applicant states that, on December 10, 1987, he appeared at the New York Legalization Office where his application was rejected or "front-desked" because he had departed the U.S. after November 6, 1986 without Advance Parole. The applicant claims that he filed a written claim to class membership. However, the applicant does not indicate when or how he filed a written claim to class membership.

The record shows that, on April 8, 2002, the applicant submitted the following documentation with his LIFE application:

- A document that purports to be an original Notice of Receipt of Form I-700, Application for Temporary Resident Status as a Special Agricultural Worker
- Documents that purport to be original notices related to applications and motions to reopen or reconsider received from the U.S. Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS)

If authentic, these notices could possibly serve as evidence of a claim by the applicant for class membership in *CSS/LULAC* prior to October 1, 2000.

None of these submissions, however, includes a CIS Alien Registration Number (A-number, or file number) for the applicant, as required in 8 C.F.R. § 245.14(b). Furthermore, there is no record of CIS generating the notices or receiving any of the applications allegedly submitted by the applicant. Moreover, the notices submitted contain flaws and inconsistencies, which calls into question the authenticity of these documents. While the Notice of Receipt of Form I-700 purports to be an original document, the date stamp on the receipt is clearly a photocopy. Additionally, the notices related to applications and motions to reopen or reconsider contain typewritten notations, including but not limited to, the applicant's name and address. 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. Clearly, the applicant did *not* file the special agricultural worker (SAW) application. If he had, an A-file would have been created at that point. As the applicant did not file a SAW application, he could not have filed a motion to reopen such application. The documents the applicant has submitted regarding the SAW application and motion cannot be authentic. Moreover, the applicant's failure to submit either originals or photocopies of the applications themselves, and the corresponding money orders which were purportedly rejected and returned by CIS, further undermines the credibility of his claim to have submitted such applications.

The record shows that, on June 6, 2003, the applicant submitted photocopies of the following documentation with his LIFE application:

- A completed Legalization Front-Desking Questionnaire, dated August 4, 1999
- A completed Form I-687, Application for Status as a Temporary Resident under section 245A of the Immigration and Nationality Act (INA) (Form I-687), dated December 10, 1987

If authentic, these applications could possibly serve as evidence of a claim by the applicant for class membership in *CSS/LULAC* prior to October 1, 2000.

There is no record of CIS receiving either of these applications. Moreover, the applicant's own testimony indicates that he did not file Form I-687 in 1987 because an INS Officer discouraged him from filing. The applicant has provided no documentation or testimony to indicate whether he claims that he ever filed a Legalization Front-Desking Questionnaire and the record shows that the applicant did not submit the enclosed Form I-687 to CIS until June 6, 2003.

In addition, the applicant offered no explanation as to *why*, if he truly had these documents referencing his purported claim to class membership in his possession beginning in 1987, he did not submit such documents with the LIFE Act application filed in 2002. Applicants were instructed to provide qualifying evidence *with* their applications and the applicant did include other documentation in support of his LIFE Act application. A review of relevant records reveals no evidence that the applicant had a pre-existing file related to a claim to class membership (the applicant has another file, [REDACTED] which he applied for asylum) prior to filing of his LIFE Act application on April 8, 2002, in spite of the fact that he claims to have been issued Service documents relating to class membership beginning in 1994. 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 the documents provided by the applicant in support of his claim to class membership are of questionable probative value.

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).

It is noted that CIS records indicate that the applicant filed a new Form I-687 on January 6, 2006. However, the application recently filed by the applicant is not pertinent to the case on appeal. It appears that the applicant recently filed Form I-687 in response to the recent settlements reached in *CSS v. Ridge*, Case Nos. Civ. S-98-629-LLK and S-86-1343-LKK IV and *Newman v CIS*, Civ. No. 87-4757-WDK (CWX). The corresponding program for the submission of legalization applications for temporary resident status under these settlements is separate and distinct from the statutes, regulations, requirements, and procedures for applying for permanent resident status under the provisions of the LIFE Act. Section 1104(b) of the LIFE Act specifically requires that an applicant must have made a written claim to class membership in one of the legalization lawsuits cited above prior to October 1, 2000 in order to be eligible for adjustment to permanent resident status.

It is concluded that the documents the applicant has submitted do not establish that he actually filed a written claim for class membership in *CSS/LULAC*, as required in section 1104(b) of the LIFE Act. For failure to meet this statutory requirement, 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.