



U.S. Citizenship
and Immigration
Services

PUBLIC COPY
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



L2

FILE: MSC 03 199 61203

Office: NATIONAL BENEFITS CENTER

Date: FEB 05 2007

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.

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 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 reiterates his claim that he had applied for class membership in one of the requisite legalization class action lawsuits. The applicant includes copies of previously submitted documents in support of his claim that he applied for class membership 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 inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. See 8 C.F.R. § 245a.12(e).

The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

Even if the director has some doubt as to the truth, if the petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is "probably true" or "more likely than not," the applicant or petitioner has satisfied the standard of proof. See *U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application or petition.

At issue in this proceeding is whether the applicant has submitted sufficient credible documentation to demonstrate that he filed a written claim for class membership in one of the legalization class-action lawsuits cited above before October 1, 2000. Here, the submitted evidence is not relevant, probative, and credible.

The record shows that the applicant filed his Form I-485 LIFE Act application on April 17, 2003. The applicant provided photocopies of the following documents with his Form I-485 LIFE Act application:

- An undated Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act) that is signed by the applicant; and,
- A “Form for Determination of Class Membership in CSS v. Meese or LULAC” that is signed by the applicant and dated June 17, 1991.

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 the determination form is dated well before October 1, 2000, the record contains no evidence that any of these documents were submitted to the Immigration and Naturalization Service (Service) or its successor Citizenship and Immigration Services (CIS) prior to the filing of his Form I-485 LIFE Act application on April 17, 2003.

Both in response to the notice of intent to deny and on appeal, the applicant submits copies of the two documents cited above, as well as a photocopy of a letter from the Service’s Northern Service Center dated January 23, 1993 that bears the applicant’s name and address, and which purportedly confirmed that he had filed for class membership in CSS and that no final decision had at yet been reached in this case. While this letter may be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. § 245a.14(d), the applicant offers no explanation as to *why*, if he truly had this letter since at least 1993, he did not submit this document with his Form I-485 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 Form I-485 LIFE Act application on April 17, 2003, in spite of the fact that he claims to have been issued the Service letter relating to class membership in 1993. 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 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. 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 he *timely* filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

Finally, CIS received the results of the applicant's Federal Bureau of Investigation fingerprint check, which revealed the following criminal history record:

On January 11, 2002, the applicant was arrested by the Dallas, Texas Sheriff's Office and charged with theft in an amount more than \$1,500 and less than \$2,000. The final disposition of this criminal charge is unknown.

ORDER: The appeal is dismissed. This decision constitutes a final notice of eligibility.