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

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street N.W.
Washington, D.C. 20536



DEC 05 2003

FILE

Office: National Benefits Center

Date:

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).

PUBLIC COPY

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Attached is the decision rendered on your appeal. The file has been returned to the National Benefits Center. 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 initially denied by the Director, Missouri Service Center. The matter was subsequently reopened and denied again by the Director, National Benefits Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In both decisions, the directors 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 from the initial denial, the applicant states that he qualifies for LIFE legalization because he filed his legalization questionnaire before February 2, 2001. The record shows that the applicant was afforded the opportunity to submit evidence to supplement his appeal just prior to, and again after the application had been denied for the second time. Any material subsequently submitted by the applicant has been incorporated into his 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), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993). 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.

In support of his LIFE Act application, the applicant included two affidavits signed by Enrique Nava and Inocente Romero, respectively. In his affidavit, Mr. Nava stated that he had accompanied the applicant when he attempted to file an application for temporary residence under section 245A of the Immigration and Nationality Act (INA) during the application period at the CIS' legalization office in Houston, Texas, but was turned away by a CIS employee. In his affidavit, Mr. Romero declared that the applicant had described to him his account of his visit to the CIS office with Enrique Nava. While the applicant may very well have been front desked (informed that he was not eligible for legalization) 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.

In addition, the applicant submitted a Legalization Front-Desking Questionnaire signed and dated September 26, 2000. However, the applicant also submitted a photocopy of a United States Postal Service (U.S.P.S.) certified mail receipt that is postmarked and reflects that he did not mail the questionnaire until October 2, 2000. Furthermore, the applicant included a photocopy of a U.S.P.S. domestic return receipt for certified mail that reflects that the questionnaire was subsequently received by Citizenship and Immigration Services' (CIS) Vermont Service Center on October 5, 2000. Pursuant to the above, an alien would have to demonstrate that he or she had filed a written claim for class membership prior to October 1, 2000.

In response to the notice of intent to deny, the applicant resubmitted the questionnaire, the photocopies of the U.S.P.S. receipts discussed in the preceding paragraph, the affidavits of [REDACTED] and [REDACTED] and a personal statement. In his statement, the applicant claimed that he was eligible because he submitted the questionnaire before February 2, 2001 per instructions. The instructions to the questionnaire were written before the passage of the LIFE Act. The basic statutory requirement of filing for class membership by October 1, 2000 must still be met in all cases, regardless of the previously-authorized administrative deadline established for filing questionnaires.

On appeal, the applicant submits photocopies of a Form for Determination of Class Membership in *CSS v. Reno* and a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (INA). These documents, as well as the above mentioned questionnaire, 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 both the Form I-687 and the determination form are dated August 14, 1996, there is nothing to indicate that either document was ever filed or was ever received by CIS. *If he truly had these copies in his possession since 1996, he would have furnished them with the questionnaire which was submitted on October 5, 2000.* Moreover, the applicant does not explain why, if these documents were truly in his possession the entire time, he did not submit them with his subsequent LIFE application, or in rebuttal to the notice of intent to deny, as applicants were advised to provide evidence *with their applications*.

Furthermore, the very questionable documents are the same documents provided by numerous other applicants who deliberately did not disclose their actual addresses on their LIFE applications but rather showed the same P.O. Box in Houston. These aliens all claim to be not represented, and yet all file the same lengthy statements

in rebuttal and/or on appeal. All of these factors raise grave questions about the authenticity of the documents submitted on appeal. It is concluded that such photocopies, furnished at a very late stage of these proceedings and unaccompanied by any reasonable explanation, do not establish that there were original documents which were actually submitted to CIS in 1996.

The applicant again asserts that he qualifies for LIFE legalization because he filed his legalization questionnaire before February 2, 2001. However, as noted above, the previously-authorized administrative deadline of February 2, 2001 for the filing of questionnaires was superseded with the passage of the LIFE Act and the imposition of the statutory deadline of October 1, 2000 for the filing of a written claim for class membership.

Given his failure to document that he filed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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