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

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invasion of personal privacy

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



DEC 16 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).

ON BEHALF OF APPLICANT: Self-represented

PUBLIC COPY

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 denied by the Director, Missouri Service Center. It was reopened and denied again by the Director, National Benefits Center. The matter 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 of the initial decision, the applicant asserts that he is providing additional documentation in support of his application. According to the applicant, this subsequently-submitted documentation had not been available to him at the time he initially filed his LIFE application because it had been stored in Mexico.

The applicant did not respond to the subsequent decision.

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 failed to submit any documentation addressing this requirement when the application was filed. In response to the director's initial notice of intent to deny, the applicant provided a photocopy of a letter dated July 25, 2000, supposedly sent to Attorney General Reno, requesting that the applicant be registered in the CSS case. Pursuant to 8 CFR § 245a.10, a *written claim for class membership* means a filing, in writing, in one of the forms listed in § 245a.14 which provides the Attorney General with notice that the applicant meets the class definition in the cases of CSS, LULAC or Zambrano. The letter does not constitute a "form" and does not equate to the actual forms listed in 8 CFR § 245a.14, although that regulation also states other "relevant documents" may be considered. Moreover, the very brief letter does not even begin to imply that the applicant could qualify for CSS class membership because it does not provide any relevant information upon which a determination could be made.

In addition, it must also be noted that the applicant is one of numerous aliens who did not furnish such letters to the Attorney General along with their LIFE applications and yet provided them only upon receiving letters of intent to deny. It is further noted that all of these aliens had their LIFE applications prepared by Professional Tax Service, Santa Maria, California. In addition, none of these aliens have provided any evidence, such as postal receipts, which might help demonstrate that the letters were actually sent to the Attorney General. Given the importance of the letters, it would be reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail.

On appeal of the director's initial decision, the applicant made reference to having submitted additional documents, including a Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, and a photocopied Form for Determination of Class Membership [no class-action lawsuit is specified]. However, a review of the record of proceedings fails to disclose the presence of either document having been provided along with the applicant's Form I-290B appeal notice. Moreover, in his subsequent decision, the director stated that a search of CIS records fails to demonstrate that the applicant had ever previously filed a Form I-687 or a Form for Determination of Class Membership.

The applicant, on appeal of the initial decision, also asserted that the two documents he claimed to have provided in support of that appeal had not been submitted initially at the time he filed his LIFE application because they had previously been stored by the applicant in Mexico and were therefore unavailable. However, this explanation is less than credible in that the applicant was able to accompany his LIFE application with *other* supporting documentation without indicating that he possessed *additional* documentation pertinent to his claim to class membership.

Given the applicant's failure to submit credible documentation indicating his having filed a timely written claim for class membership, he 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.