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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

[Redacted]

FILE [Redacted] Office: NATIONAL BENEFITS CENTER

Date: NOV 19 2003

IN RE: APPLICANT: [Redacted]

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).

IN BEHALF OF APPLICANT:

[Redacted]

PUBLIC COPY

INSTRUCTIONS: Attached is the decision rendered on your appeal. The file has been returned to the Service Center that processed your case. If your appeal was sustained, or if your case was remanded for further action, the Service Center will contact you. 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
for

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, and is now before the Administrative Appeals Office 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, counsel states that the applicant has provided several documents that indicate a file has been created for him. According to counsel, the fact that the applicant's file can not be found should not be a reason to deny his eligibility.

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 application, the applicant submitted photocopies of a purported rejection notice from Citizenship and Immigration Services' (CIS) Vermont Service Center indicating that his motion to reopen and check were being returned because he was not allowed to file a motion on a legalization case filed under section 245A or section 210 of the Immigration and Nationality Act. He also provided two copies of a supposed notice of action from the service center which instructed the applicant that his interview for class membership eligibility was cancelled. The applicant also furnished a photocopy of an alleged notice dated November 18, 1988 from CIS' New York District Office acknowledging receipt of a Form I-700 Application for Temporary Resident Status as a Special Agricultural Worker (SAW). In addition, the applicant presented a photocopy of a document dated June 4, 2001 from CIS' Texas Service Center which acknowledges receipt of the applicant's fingerprint fee.

None of these documents have all of the information blocks completed and they also lack a reference Alien Registration Number

(A number). Furthermore, the documents appear as if they have been photocopied numerous times and may have had information added to them. The notice regarding the SAW application does not seem to be legitimate, as CIS has no record of the applicant having filed such application. Similarly, the notice advising the applicant that he could not file a motion cannot be genuine, as the applicant had not filed a legalization or special agricultural worker application in the first place.

The applicant also furnished a photocopy of a purported Form G-66 Appointment Notice dated September 9, 1991 from CIS's Miami District Office. This notice, which is also without an A number, instructed the applicant to appear for his interview in Miami, Florida despite the fact that the applicant's listed address was in New York, New York. Consequently, this document does not seem bonafide.

On rebuttal to the notice of intent to deny, counsel asserted that the applicant had submitted evidence to establish that he had made a claim for class membership. Counsel also resubmitted copies of the appointment notice, the rejection notice and the document relating to receipt of the applicant's fingerprint fee. According to counsel, the appointment letter is evidence that the applicant appeared in person to file a written claim for class membership. In addition, counsel stated that the applicant had been assigned an A number, indicating that a file was opened by CIS.

As discussed above, the appointment notice is not persuasive and the remaining documents submitted in response to the notice of intent to deny are questionable at best. They are not completely filled out and lack pertinent information, thereby reducing their probative value. Furthermore, contrary to counsels' argument, an applicant's A number alone does not establish that a claim for class membership was filed in a timely matter. The A number, or file number, relating to the applicant was assigned to him when he filed the current LIFE application in May 2002.

On appeal, the applicant again argues that the applicant has provided documents received from CIS and has had an A number assigned to him. Counsel contends that the applicant has met his burden of proof. However, a check of Citizenship and Immigration Services (CIS) records and indices fails to establish that a claim for class membership was ever filed by the applicant.

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

It should be noted that the applicant indicated on his Form I-485 LIFE Application and concurrent Form I-765 Application for Employment Authorization that he last entered the United States on

October 25, 1985. In addition, on his Biographic Information Form G-325, the applicant indicated that he resided in Bangladesh until October 1985. Pursuant to 8 C.F.R. § 245a.11(b), each applicant must demonstrate that he or she entered the United States prior to January 1, 1982 and resided in this country since that date. In his own words, the applicant did not begin residing in the United States in time to now qualify for permanent residence in the LIFE program.

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