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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

La

[Redacted]

FILE:

[Redacted]

Office: National Benefits Center

Date: APR 13 2004

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).

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 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
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. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the applicant had not established 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 asserts that he qualifies for LIFE legalization because he filed an "Affidavit of Circumstances (Questionnaire)" with the INS (now Citizenship and Immigration Services, or CIS) before the deadline of February 2, 2001, claiming class membership in the *CSS v. Meese* lawsuit, *infra*, by virtue of having been "front desked" in his attempt to file a Form I-687 application between May 5, 1987 and May 4, 1988. The applicant also asserts that other individuals in similar situations had their applications approved.

An applicant for permanent resident status under section 1104 of 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 one 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 section 1104(b) of the LIFE Act and 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 application and in response to the director's notice of intent to deny, the applicant submitted a copy of a "Legalization Front-Desking Questionnaire," signed by him and dated "12 - 2000," and a certified mail receipt of the U.S. Postal Service stamped as received by the INS (now CIS) office in St. Albans, Vermont, on December 11, 2000. The applicant's file does include the *original* of the front-desking questionnaire, which was received by Citizenship and Immigration Services' (CIS) Vermont Service Center on January 29, 2001. In order to qualify for late legalization under the LIFE Act, however, an alien must demonstrate that he or she had filed a written claim for class membership prior to October 1, 2000.

As to the February 2, 2001 deadline which the applicant references on appeal, that deadline appeared in CIS instructions that were issued prior to the passage of the LIFE Act. Those instructions related only to the February 2, 2001 deadline for attempting to obtain class membership in the legalization class-action lawsuits. The aliens who acquired class membership will eventually be notified as to how they may proceed under the litigation settlement. That settlement is entirely outside the scope of this current proceeding under the LIFE Act.

Here, *in the current proceeding*, the applicant has not applied for class membership in a lawsuit but rather has applied directly to CIS for permanent resident status under the LIFE Act. The basic statutory requirement of having filed for class membership by October 1, 2000 must still be met in all LIFE cases, regardless of the other previously-authorized administrative deadline established for filing questionnaires. Since the applicant's Legalization Front-Desking Questionnaire was not submitted to the Vermont

Service Center until December 2000 or January 2001, under the LIFE Act it is not evidence of a timely, and therefore legally valid, claim for class membership in CSS.

The applicant also submitted photocopies of a Form I-687, Application for Status as a Temporary Resident, and a Form for Determination of Class Membership in *CSS v. Reno*. 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.

With respect to the Form I-687, the photocopy submitted with the LIFE application is filled out by hand, bears the applicant's signature, and is dated March 22, 1999. In response to the director's notice of intent to deny, the applicant submitted another photocopied Form I-687. It is likewise signed by him and dated March 22, 1999, but is completed in typeset rather than handwritten. The applicant offers no explanation for the two versions of Form I-687, fails to explain why the second version was not submitted with his LIFE application, and furnishes no evidence, such as a postal receipt or an acknowledgement letter, that either form was sent to CIS in March 1999. In any event, CIS has no record of receiving an I-687 form from the applicant in March 1999 or any time thereafter up to the statutory deadline of October 1, 2000 for claiming class membership in *CSS* or one of the other two legalization lawsuits.

The applicant has not resolved the inconsistency of the two I-687 forms submitted in this proceeding, nor provided any evidence that either of the versions was actually prepared and submitted to CIS in March 1999. 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).

The photocopied Form for Determination of Class Membership in *CSS v. Reno* was submitted by the applicant in response to the director's notice of intent to deny. This document bears the applicant's signature and is likewise dated March 22, 1999. As with the I-687 form, however, CIS has no record of receiving the *CSS* class membership determination form from the applicant in March 1999. Nor has the applicant furnished any evidence, such as a postal receipt or an acknowledgement letter, that the form was ever sent to CIS prior to the statutory deadline of October 1, 2000, for claiming class membership in *CSS*. Again, the applicant has not explained why, if he truly had the photocopy since 1999, he did not submit it with his LIFE application.

Furthermore, the two questionable documents discussed above are the same documents provided by numerous other applicants who did not disclose their actual addresses on their LIFE applications, but rather showed the same P.O. Box in Houston. These aliens do not claim to be represented, and yet they 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. It is concluded that the photocopied I-687 and class membership determination forms submitted by the applicant in this LIFE Act proceeding do not establish that there were original documents which were actually submitted to INS in 1999.

Thus, none of the pertinent documentation in this case establishes that the applicant filed a written claim for class membership in *CSS*, or either of the other two legalization lawsuits, prior to October 1, 2000, as required under section 1104(b) of the LIFE Act.

The applicant's last contention is that two other individuals in similar situations had their applications approved after originally being denied. The applicant has submitted copies of Service Motions to Reopen and Reconsider those cases in which the CIS approved Form I-765 and Form I-131 applications for the respective applicants. Those approvals were for employment and travel authorization, however, not

permanent resident status under the LIFE Act. The applicant has submitted no evidence that either of the individuals involved in those two cases filed a Form I-485 LIFE application. Thus, the cases cited by the applicant, and the rulings issued thereon, have no bearing upon the LIFE application at issue here.

Given his failure to document that he filed a timely written claim for class membership in *CSS* or either of the other legalization lawsuits, 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.